

**ST. ELIZABETHS HOSPITAL NATIONAL HISTORIC LANDMARK
CONSULTATION & PHASE 1 REDEVELOPMENT:
THREADING A CAMEL THROUGH THE EYE OF A NEEDLE**

A Thesis

Presented to the Faculty of the Graduate School
of Cornell University

In Partial Fulfillment of the Requirements for the Degree of
Master of Arts

by

Thomas Anton Richmond

August 2013



© 2013 Thomas Anton Richmond

ABSTRACT

Many in this world only achieve excellence when they are pushed into a position where nothing but excellence will do. If federal government agencies were left to their own devices, the historic preservation results would be rote and and perfunctory at best. The project at St. Elizabeths Hospital National Historic Landmark is an excellent and very recent example. Without the participation of preservation-focused consulting parties, the National Historic Preservation Act and National Environmental Policy Act wouldn't be worth the paper they were written on.

However, the current Congressional budget crisis threatens both these acts, and more. Preservation is seen more and more by legislators and administrators in the federal service as inconvenient and unnecessary, and funding in support of it is not seen as central to the mission of any federal agency. It is now possible for any federal agency to use the St . Elizabeths template, created by the GSA out of necessity, to secure approval for any project, anytime, anywhere. This may lead to a significant shift in consultation, minimization and mitigation efforts at federal preservation projects in the future.

BIOGRAPHICAL SKETCH

Thomas A. Richmond attended Cornell University 2011-2013 (MA HPP 2013), Purchase SUNY from 1991-1996 (BLS 1996), and Community College of the Finger Lakes SUNY 1981-1986 (These latter two institutions now function as Purchase College and Finger Lakes Community College, respectively).

He has worked in the historic preservation field for The National Trust for Historic Preservation, The City of New York, The Catholic Foreign Mission Society of America, Third Concession Company Inc., Sonnenberg Gardens, Historic Hudson Valley Inc., Wave Hill, Columbia University, and Northeast Greenhouse Restoration Inc., among others. In the summer of 2012 he worked as the NCPE intern at the Center For Historic Buildings, within the Office of the Chief Architect of the Public Buildings Service of the General Services Administration Central Office in Washington DC. He has presented papers before the Canadian Archaeological Association, the American Association For Botanical Gardens and Arboreta, the Columbia University Historic Preservation Program, and the St. Thomas University Broadcasting Program. He is a member of the Association for Preservation Technology, Washington DC chapter.

He lived in Canada from 1997 to 2011, where he pursued preservation, restoration and reuse work at numerous sites. In addition, he was the founder of a public radio station on Amherst Island, Ontario.

DEDICATION

As President Kennedy said, we don't things because they're easy, we do them because they are hard. Trying to do the right thing for our cultural resources is not always cut and dried; there are not always black and white comparisons of right and wrong, and there are seldom propositions that find universal acclaim in this difficult economic climate, in these turbulent world times.

I've heard it said that all the easy preservation projects have been done, and what remains are the difficult battles: the hand-to-hand combat in the trenches where at times the professionals doing the work might be in a fight with their own employers. I can't say that I've done that kind of work in my professional life, however, I can say that I've read the documentation, had long conversations with those involved in some extremely significant projects, seen the joy in their faces as they visit "their" site or describe the final outcome as one of the highlights in their career. I've also heard the disappointment in their voices when the law of unintended consequences comes into play, and the results more resemble something Dr. Frankenstein created.

There are cultural resources being destroyed today that nobody will ever know about because it's expedient to get them out of the way of progress, and we are all the poorer for it. The undertaking that I will be discussing in this thesis could have been consigned to the dustbin of history, but was dragged back through the efforts of a few preservation professionals who said "We can do better than this." This work is dedicated to them, and those who taught them preservation right from wrong.

ACKNOWLEDGMENTS

I would like to thank the following individuals for their efforts on my behalf in the last two years:

- Dr. Michael Tomlan, who has made it clear that when we graduate we are all expected to go out and do something good with our lives.
- Dr. Sherene Baugher, Prof. Jeffrey Chusid, and Dr. Carol Griggs. My time under your care at Cornell University has quite literally changed my life.
- My mentors at the General Services Administration: Beth Savage, Nancy Witherell, Caroline Alderson, Joan Brierton, Jeffrey Jensen, George Siekkinen, Elizabeth Hannold, and Jana Gross.
- The numerous interviewees and consultants who agreed to speak with me in both credited and uncredited roles.
- Special thanks for guidance and assistance beyond the call of duty go to Mr. David Overholt MS, and Dr. Eric G. Carlson.
- In addition, appreciation goes out to the following individuals, who have been of great personal assistance: RACLR; CER; BER; SLR; AER; JBL; KB; EB.

TABLE OF CONTENTS

ABSTRACT	iii
BIOGRAPHICAL SKETCH	iv
DEDICATION	v
ACKNOWLEDGMENTS	vi
TABLE OF CONTENTS	vii
LIST OF FIGURES & ILLUSTRATIONS	x
PREFACE	xii
INTRODUCTION	1
CHAPTER ONE Minimization and Design: Two Sides of the Same Coin	7
CHAPTER TWO Review and Compliance: The National Historic Preservation Act, National Environmental Policy Act, and Executive Orders	13
The National Historic Preservation Act (NHPA)	13
Assessing Compliance Under NHPA Preservation Regulations & Directives	15
The National Environmental Policy Act (NEPA)	18
Executive Orders	21
The Federal Antideficiency Act	25
CHAPTER THREE Background: The Winder Complex & The African Burial Ground National Monument	26
CHAPTER FOUR St. Elizabeths National Historic Landmark	41
Where Is St. Elizabeths?	42
An Overview of St. Elizabeths Hospital History	43
CHAPTER FIVE The U.S. General Services Agency and the Department of Homeland Security: The Landlord and the Tenant	49
The General Services Administration (GSA)	50
The GSA Center For Historic Buildings	51
The Department of Homeland Security (DHS)	54
Why DHS at St. Elizabeths?	58
CHAPTER SIX St Elizabeths Project: The Early Period, Starting December 2004	60
The Proposal For St. Elizabeths West Campus	61
St. Elizabeths and the Public Process	63
The Online Public Document Center for St. Elizabeths	64

The Consulting Process	66
Professional Organizations	66
Federal Government Agencies & Representatives	67
Local Government Agencies	68
National Advocacy Groups	69
Local Advocacy Groups	70
CHAPTER SEVEN The First Critical Twelve Months of St. Es Planning: 2005	73
Possession & Planning	74
DHS Appears On The Scene	75
The Problems With The Public Process	79
Areas of Concern for the Consulting parties	83
The St. Elizabeths Project and Politics	96
Politics in DC, Both Federal and Local, All At Once	98
The DHS and the Consultation Process	99
Preferences & Biases in Research and Negotiated Procedures	101
Transparency in Information Sharing, and Misunderstandings	103
GSA at St. Es: Negotiating between a rock and a hard place	104
The Coast Guard was not happy about the project	111
PL 109-241: The Coast Guard Maritime and Transportation Act of 2006	113
Addressing Increased Security Concerns For Federal Offices After 2001	114
Section 4(f) of the Transportation Act & The National Park Service	115
CHAPTER EIGHT The Draft EIS and The Section 213 Report:	
A Critical Turning Point At St. Elizabeths	117
GSA and the NEPA process: Draft Environmental Impact Statement (EIS)	118
The Section 213 Report	124
A Failure at ACHP and the National Park Service	125
CHAPTER NINE St Elizabeths Consultation:	
December 2007 to January 2009	129
'Pause and Reflect' – December 2007 Through March 2008	130
Moving Forward on St. Es, Spring 2008	132
GSA and the NEPA process: The Final EIS	133
The St. Elizabeths Programmatic Agreement - December 9, 2008	135
CHAPTER TEN Mediation, Negotiation & Push-back During the St. Es Consultation	137

Consultation, Mediation, Negotiation: What's In A Word?	138
Make Your Plan, Then Execute it	141
Experience In Mediation and Negotiation Is Vital	142
The Carrot & The Stick	143
It Takes A Village	150
Preservation at GSA: The Very Well-Versed and Politically-Connected 800-Pound Gorilla	151
DHS, the Tiger by the Tail	153
PBS As Circus Ringleader	154
The Legacy of the St. Elizabeths Process	155
A Cautionary Tale, Looking Toward The Future	156
December 2012: St. Elizabeths PA Update & Death By Funding Shortfall	158
If Not DHS, Then Who? A “What If” Scenario	161
After the smoke began to clear... a reconciliation?	163
Moving Forward after St. Es.	165
St. Elizabeths <u>East</u> Campus & A Lack of Preservation Interest: The sad truth	166
CHAPTER ELEVEN Conclusion: Lessons Learned: How can we better prepare for future preservation challenges?	169
APPENDIX	
A) The Winder Case	176
B) Landmarks of the St. Elizabeths Undertaking (to date)	183
C) Washington Business Journal - December 12, 2005 - Southeast's St. E's to land new HQs, \$900M budget	186
D) Washington Post - March 30, 2012 - St. Elizabeths renovation as security campus faces resistance	188
E) Section 213 Report – NPS to ACHP	195
F) Annual Status Report On The Redevelopment of St. Es - December 20, 2012	201
G) NEPA vs. NHPA - Government of the District of Columbia Historic Preservation Office, Tim Denee to GSA, 20Dec2006	218
BIBLIOGRAPHY	228

LIST OF FIGURES & ILLUSTRATIONS

--Figure 1: St. Elizabeths Hospital NHL Site Plan, West Campus (1985). Source: GSA	xii
--Figure 2: St. Elizabeths Campus Map, centered on USCG Headquarters building (2013). Source: USCG	xiii
--Illustration 1: Winder Building, 17th and F St NW, Washington DC, taken between 1860 and 1880. Photographer: Matthew Brady Studio. Source: Library of Congress, Image ID# loc.pnp/cph.3c35530 Last accessed 13Apr2013.	26
--Illustration 2: African Burial Ground and the Commons Historic District. Source: http://geographer-at-large.blogspot.com/2011/01/african-burial-grounds-update-and.html Last accessed 01Mar2013.	31
--Illustration 3: African Burial Ground National Monument. Source: http://maap.columbia.edu/mbl_place/10.html Last accessed 01Mar2013.	37
--Illustration 4: Topographical map of the District of Columbia / surveyed in the years 1856-9 by A. Boschke; engraved by D. McClelland, Published 1861. St. Elizabeths Hospital is marked by a black dot added in the lower right corner. Source: DC Preservation League	41
--Illustration 5: St. Elizabeths West Campus, showing a small sampling of the support buildings of various sizes, styles and usages. Source: Author photo	43
--Illustration 6: Illustration : GSA Central Office, 1800 F Street NW, Washington DC. Source: GSA	49
-- Illustration 7: St. Elizabeths West Campus Master plan, 2012. The dark shaded buildings are historic, those outlined in white are planned new construction. Source: GSA EIS documentation.	56
--Illustration 8: The Center Building at St. Elizabeths Hospital in Washington, D.C. is one of the oldest buildings on the campus, pre-dating the American Civil War. Source: Thomas Otto	60
--Illustration 9: New US Coast Guard Headquarters at St. Es. Source: USCG	63
--Illustration 10: St. Elizabeths Campus, view from "The Point" toward the Mall. Author photo.	73
--Illustration 11: St. Elizabeths Center building, decorative terracotta lion, damaged before GSA took control of the property. Author photo	117
--Illustration 12: St. Elizabeths Heat and Electricity Plant, West Campus. Author photo	129
--Illustration 13: St. Elizabeths site visit August 21, 2012, approaching Coast Guard Headquarters construction site. Left to right: Thomas Otto, Beth Savage, Tom Richmond, Joan Brierton, two others. GSA photo.	137

--Illustration 13: St. Elizabeths NHL, US Coast Guard HQ building under construction. The Center building is at the at the extreme left edge of frame. Source: USCG photo

169

PREFACE

The undertaking at St Elizabeths¹ National Historic Landmark is, in a word, massive. The project file collection I saw in early 2013 stretched for fifteen lineal feet of shelf space. The public document file contains hundreds and hundreds of individual documents, some are one page, others are literally hundreds of pages long. The total amount of office space being created across the whole campus in multiple buildings is greater than that seen at the Pentagon.

Any attempt for me to cover this project in a few hundred pages is, unfortunately, going to be cursory. I did not have access to proprietary GSA documents (or those of any other agency) on the project during the writing of this paper. I could have processed a Freedom Of Information request for internal files, but such a request would have had a small value: those hundreds and hundreds of online documents were more than enough to keep me busy at this stage. Nevertheless, my small work pales in comparison to the full depth of the story, which probably will never be told.

Some information is based on interviews with persons who are not referenced in this document. I have protected my sources in this regard, and have made a clean breast of this aspect of my work to my thesis advisor. Those who desire further detail may make a request in writing, however, some data is not available for further release.

¹ The strange lack of an apostrophe in the property's name, "St. Elizabeths" was mandated by Congressional decree in 1916 (following a usage assigned during colonial times for that land grant), and so is actually the official and the proper usage. When abbreviating the name, the term "St. Es" is used. This fact has annoyed proofreaders for nearly a century, and shall continue to do so into the future.

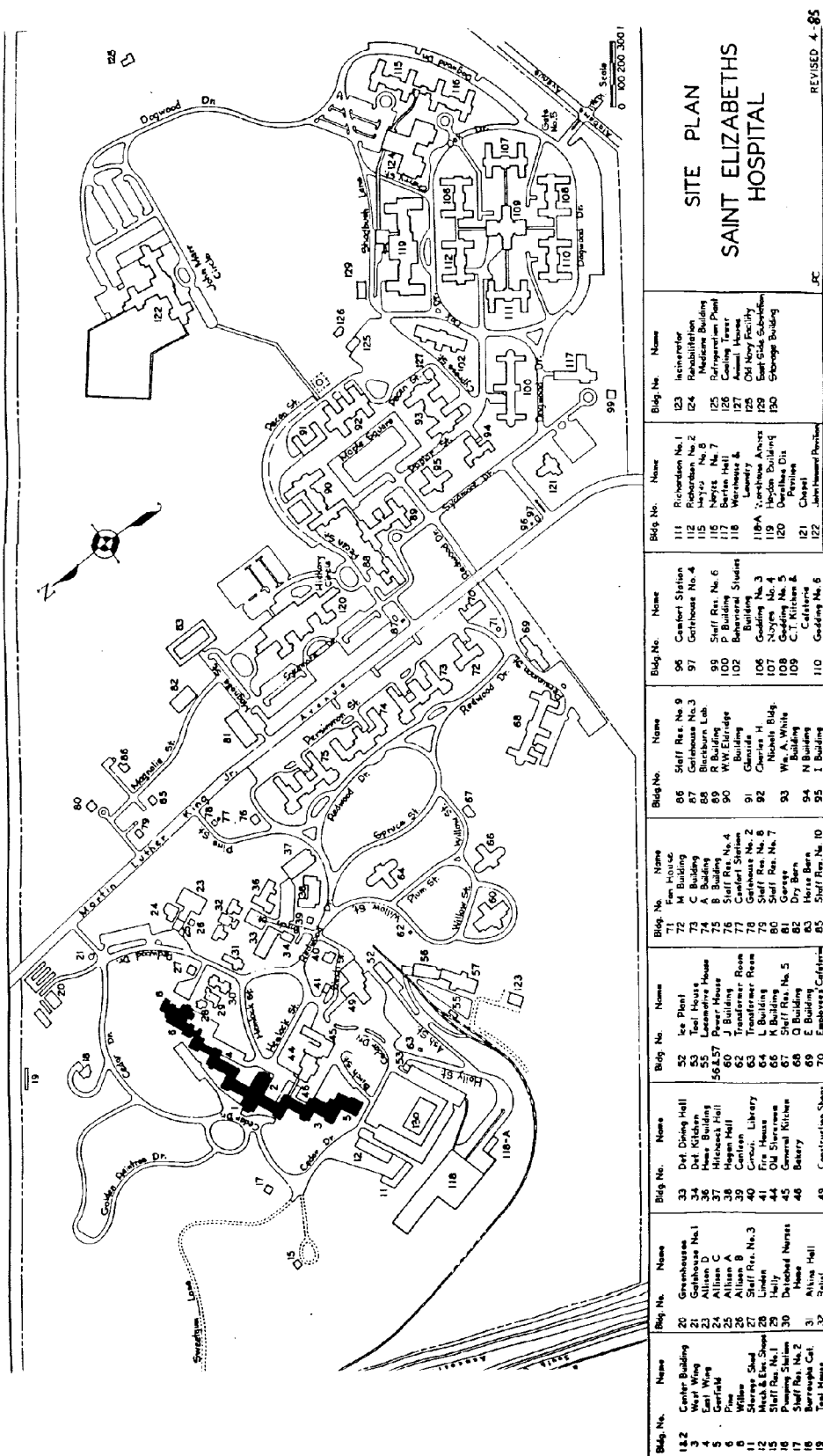


Figure 1: St. Elizabeths Hospital NHL, East & West Campus (1985). Source: GSA

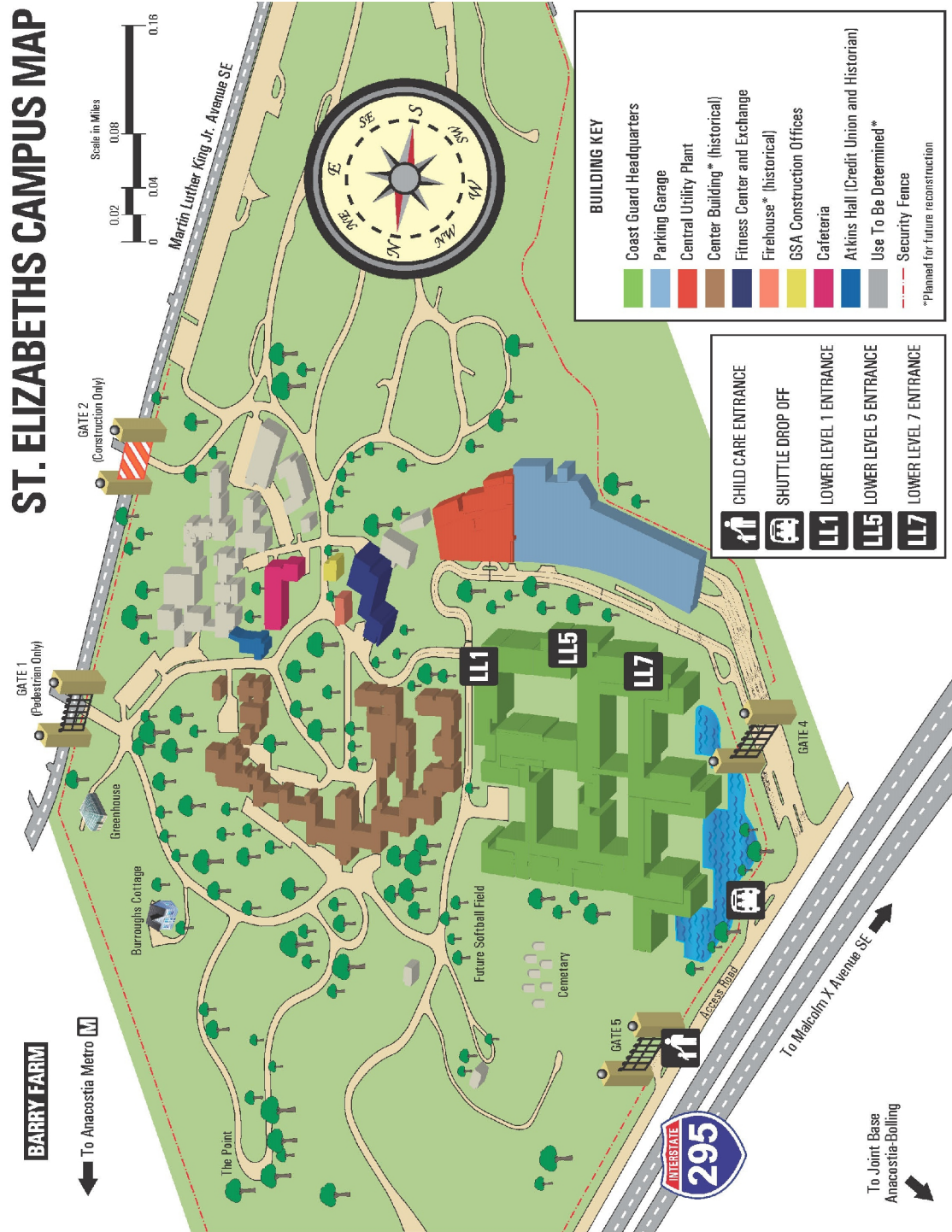


Figure 2: St. Elizabeths Campus Map, centered on USCG Headquarters building (2013). Source: USCG

INTRODUCTION

In this thesis the discussion focuses on the redevelopment project at the St. Elizabeths National Historic Landmark (St. Es) in Washington D.C., with comparisons to the Winder Complex demolition case and the African Burial Ground (ABG) National Monument site in Manhattan. These three projects are tied together because they all involve the General Services Administration (GSA) and the National Historic Preservation Act (NHPA), and are formative in the way federal projects approach the preservation of their cultural resources.

Of these three undertakings, The Winder Complex was the first, occurring in 1975, and involves intentional demolition by a federal government agency in a show of total disregard of the NHPA. The African Burial Ground (ABG) discovery took place in 1991, and involves the desecration of a burial ground, and the short-lived coverup and disrespect of the survivor community in order to remain on schedule for a federal office building project. The undertaking at the Saint Elizabeths Hospital National Historic Landmark in Washington DC began in 2004, and involves significant design and usage negotiations, with numerous agencies and interested parties, under extremely contentious circumstances. The St. Elizabeths undertaking is a landmark in how compliance with the National Historic Preservation Act and other relevant acts was achieved, but its consultation phase exposed a number of rough edges along the way.

Throughout the entire process, the St. Es project was under the political magnifying glass that defines large-scale projects in the nation's capital. It is entirely possible that the intentions of the intricately-crafted forty-plus page programmatic agreement signed in December 2008 may never be fully realized because of Congressional budgetary constraints. Years of hard work at the negotiation table may have become nothing but another bargaining chip to be tossed away in the current federal fiduciary wrangling.

At the Winder Complex, it became clear arbitrary use of power can destroy multiple landmarks in a single day. At the ABG we saw the failure of design after the fact of discovery. However, the shock value that caused these sites to be catapulted into the public eye has faded enough so that we as a culture (and as a government) may have forgotten some of the lessons that were learned. Both of these two earlier projects had a significant impact on the creation of policies that eventually guided the twenty-first-century St. Elizabeths project.

This work involved research using the project files posted online for use of the public, and interviews with participants and observers to the process at a variety of federal projects. The most memorable interview comment heard during this research was

“The law keeps us engaged, it keeps us compliant... but the law is also a loophole, because as long as you counted every penny, dotted every I and crossed every T, we could get done what we needed to get done. So does that raise a question about the strength of the law, or it's value?”²

The ramifications of this statement echo loudly. Now that the GSA has successfully passed the proverbial camel through the eye of the needle at a National Historic

2 Interview comments, Joan Brierton, GSA, PCAB, 09JAN2013.

Landmark, that formula could streamline approval for other projects in the future.

Because of federal budget cuts, going beyond 'mere' compliance on federal preservation projects may become a dead concept.

To accomplish the coverage of this subject, we will begin in chapter one with a discussion of minimization and design for federal projects involving historic resources. A brief overview of the Secretary of Interior's standards for historic preservation undertakings follows, and we hint at other important projects which may have parallels to the subject at hand.

Moving on to regulatory issues, in chapter two is a discussion of the National Historic Preservation Act, the National Environmental Policy Act, and several applicable Executive Orders which are necessary for a discussion of these and other projects.

In chapter three is a brief discussion of two federal undertakings that have run afoul of those requirements in the past fifty years, at the Winder Complex in the 1970's and the African Burial Ground National Monument in the 1990's.

We introduce the primary object of this thesis, St. Elizabeths Hospital National Historic Landmark, in chapter four. Background and historical information is covered and site significance is discussed in this section.

In chapter five, the history and operation of the General Services Administration is covered, including an overview of the Public Buildings Service and the Center for

Historic Buildings. Also covered is the history and operation of the Department of Homeland Security as the prospective tenant for the St. Elizabeths site. The reasons behind the proposal to place the DHS headquarters on the St. Es west campus are outlined and placed in context with an overview of their existing facilities within the in the District of Columbia.

The start of consultation for the proposed project at St. Es is covered in chapter six, with details on the early proposals for the site. The online public document center, a pioneering use of technology for public involvement, is outlined. The consultation process and the pedigree of parties involved in that procedure is covered.

Chapter seven looks at the first critical months of st. Es project planning, with a few mis-steps and misunderstandings as public phase begins. Questions are asked as to how much consideration historic preservation was given during the planning of the project (before the site's transfer from the Department of Health and Human Services), and how problems at this stage might have led to difficulties that dogged the project for several years. We discuss politics, bias in the consultation process, negotiation procedures and transparency. The GSA finds itself in a difficult position as both the DHS and the US Coast Guard, as tenants, express reservations about the site, the process, and the GSA's tactics. At the same time, preservation consulting parties and other government agencies push back against the proposal for several reasons.

A critical point in the process is discussed in chapter eight, the production of NEPA-required a Draft Environmental Impact Statement and an Advisory Council for

Historic Preservation requested Section 213 report, both of which cite adverse long-term impacts to the cultural resources at St. Es. Unfortunately, their impact is mitigated by a failure to meet a critical deadline, and this case then begins to raise questions regarding the effectiveness and ability of federal caretaker agencies to function under tight budget constraints, and just how much “Administration Priorities” can impact project outcomes.

In chapter nine we cover the St. Es project from December 2007 through January 2009, from the “pause and reflect” period, through the creation of the GSA 'A' team and the final concessions, negotiations, and agreement documents that pressed the project to a final Programmatic Agreement on December 9, 2008.

Chapter ten discusses mediation, negotiation, and the weapons the consulting parties wielded to keep the process on check as much as could have been done. In comparison, the power of the GSA's PBS and its ability to act as an experienced ringleader in a process that is focused on compliance is discussed, and its ability to avoid lawsuits and to divert interference to its plans is discussed. As an example of the law of unintended consequences, however, short-sightedness and poor planning may have both masked another site that would have been more suitable fit, and doomed the St. Es project to a possible death by funding shortfall.

In the concluding chapter, we ask how we can do better, and if these or other resources can still be properly protected in this time of budgetary constraints.

Extensive documentation in the Appendices provides ready access to critical documents from the lifespan of this and other cited projects. Care was taken to include items that may, in years to come, become unavailable due to the vagaries of internet and government access regulations. It is hoped that a careful reading of these documents will edify the researcher and add to the value of this document as an object of public record. It should be noted that this is the first masters thesis or doctoral dissertation written on this particular project, and after its publication the availability of information may undergo a change for the better, or the worse.

CHAPTER ONE

Minimization and Design: Two Sides of the Same Coin

Terms such as preservation, minimization, and mitigation are used throughout the federal service when discussing how cultural resources are dealt with, irregardless of whether their status is declared or not.

The Secretary of Interior's Standards for Historic Preservation undertakings³ places treatment options into the following priority:

- 1). Preservation.
- 2). Minimization.
- 3). Mitigation.

Preservation calls for the retention of an object's original historic fabric during conservation, maintenance and repair. Preservation does not necessarily mean removal of newer features. Instead, its general intention is to show an object's history, through the alterations that have been made over time.

Minimization is a direction consciously taken during the design phase of a project, to reduce the possible impact on historic resources to an absolute bare minimum.

Mitigation takes place as a consequence of admitting that there will be unavoidable adverse impacts on a historic resource, and an effort is being made to reduce or offset

3 <http://www.nps.gov/hps/tps/standguide/> Last accessed 12Mar2013.

those effects by the use of methods that will assist in the preservation of other portions of the undertaking.

From the outset of this study is important to understand the finer line that defines the difference between minimization by design and mitigation. This may seem like splitting hairs, however, when considering work that involves the federal government in any way, the difference is vitally important.

In the federal service when people talk about project design involving a historic site, they use the term 'minimization.' The intent of involving preservation professionals during the design phase of a project is to ensure that a historic cultural site maintains its integrity throughout the process, and that all team members on that project understand the importance of the historic resources involved. Each agency, and department within that agency, has its own focus. The General Services Administration (GSA), for example, has a plethora of people whose focus is commercial real estate, leasing, and development, while it has another group whose focus is on the tasks of architects, and still another that concentrates on the oversight of its historic cultural resources. Fulfilling this last role at the GSA, The Center for Historic Buildings must work as the gatekeeper and the standard-bearer for the preservation of historic buildings and also those which may become recognized as historic in time, within the GSA's portfolio.

On the other hand, 'mitigation' methods can run the gamut from the documentation of a historic site before it is demolished, the creation of educational materials or websites

to spread information on the historic resource, providing interpretive signage and place-saving monuments, to the use of building interventions that are reversible or that shield the changes to historic fabric from everyday view. One of the problems to be considered when discussing mitigation is the permanence of those mitigation methods. If grant-funded interpretive panels wear out due to weathering and are removed because there is no further funding for their replacement, has this mitigation method failed as a way of interpreting or “preserving” history? Will the layering of mitigation methods, by the use of documentation, publication, or the preservation of fabric in a location other than its original (such as in a museum, archive, or on the world-wide web) ever work as a permanent record of the past? Is mitigation merely acquiescence, ultimately an admission of failure by society to protect its historic fabric?

The design of projects involving historic sites involves more than pencils, vellum, and drafting tables.⁴ Negotiations continually take place throughout the life of such an undertaking, from concept through consultation and implementation, both within an organization and externally with clients and consulting parties. During nascent concept and design phases, those within the project need to be reminded of the legally binding import of historic preservation regulations on government agencies, and to do so requires both high levels of interpersonal skill and negotiating prowess. There are several obvious examples where projects have careened off on a path that diverges from the intent of the National Historic Preservation Act,⁵ and require a skilled hand to bring it back on track. The ability to communicate the importance of cultural

4 This is an extremely dated reference, to be sure.

5 The Winder Building is discussed in chapter three

resources to other professionals, whose daily tasks do not involve what they might see as 'esoteric concerns' like historic preservation, is vital to adhering to our duties under the NHPA and the survival of the historic fabric of our society.

By having preservation professionals become involved at the very start of any project, whether it there is thought to be any impact on historic resources at all, or not, we can avoid problems, protect resources, and speed the planning and consulting phases of undertakings. Expending hundreds or thousands of man-hours before considering the Section 106 impacts of new designs can be seen, time and again, to be an example of poor economy. However, it continues to happen, even on federal projects, because the value of preservation is minimized by the apparent appeal of progress.

Minimization increases the cost of the design phase of a project because it requires additional manpower and research, but it reduces the execution cost of a project when compared with one that could have been held up due to regulatory, legal, procedural or public relations issues. However, minimization by design does not work well on a scheduled timetable because the negotiations and fact-finding involved in making it work is difficult to force into a restricted frame of time. This becomes especially apparent when the undertaking in question involves several agencies on the local, state and federal levels, public and private consulting parties, and the need to attain any kind of consensus, understanding or agreement to move forward to a final outcome (even if that outcome is that the parties involved are unable to come to an agreement). When cost is seen from more than a purely financial standpoint, including capital that

involves political or public value, minimization by design has a value beyond dollars-and-cents that mitigation upon discovery cannot match.

Minimization by design and mitigation both need significant monitoring during the design and execution of a project. When budgetary concerns arose about a new strategy to reduce the impact of construction at the St. Elizabeths NHL came up, the statement was made that “Programmatic Agreement stipulations are a commitment and cannot be discarded simply due to budget concerns. The Agency must, by law, make all attempts to offset and mitigate.”⁶

Another aspect of minimization by design and mitigation is documenting the agreement on paper, and that is done through Programmatic Agreements (PA's) and Memoranda of Agreement (MOA). A site may have one or several of each, depending on the complexity of the undertaking. For example, a single PA was signed for the St. Elizabeths NHL, followed by several MOA's covering different parts of the project. For St. Es, the USCG MOA covers the United States Coast Guard Building, Garage, Cemetery, and the specific site work associated with these parts of the undertaking. Additional MOAs for St. Es include: the security perimeter (excluding the cemetery); Shepherd parkway; adaptive reuse of existing historic structures; the public access program (includes gate houses, entrances and Firth Sterling).

The discussion of preservation, mitigation and minimization can become very complex because of their interrelatedness, and important projects will usually have

6 14 April 2009 St. Elizabeths Consulting Party meeting notes.

portions that fall under differing standards. However, by having an understanding of the principles behind the definitions and the regulations behind them, we can more easily separate them into different categories for proper treatment. Dealing with the net that makes up preservation policy is something that federal agencies excel at, and this precedent setting work helps define the standards to which cultural resource protection is held in the United States.

CHAPTER TWO

Review and Compliance: The National Historic Preservation Act, National Environmental Protection Act, and Executive Orders

In order to understand the relationship regarding historic preservation law that exists between federal legislation, federal government agencies, various other state and local government players, and interested consulting parties, in this chapter an overview is provided of the most relevant regulations and definitions. This also provides an opportunity to explore the activities involved in budgeting for agency operation and project funding as they are impacted by legislation such as the federal anti-deficiency act.

The National Historic Preservation Act (NHPA)

The NHPA guides federal decisions on the disposition of historic property, and the consultation process necessary when the government considers new uses or the disposal of a historic property from federal ownership. It also has implications for properties that receive funding, licensing or other sanction from the federal government. The Advisory Council on Historic Preservation is the agency authorized, under the NHPA, to develop implementing regulations and oversee agency compliance with the act. NHPA sections 106, 110, and 111 govern the decision-making process when it comes to federal property.

Section 106 regulates the review process for federally funded undertakings, which include, but are not limited to, acquisition, leasing, disposal, or alteration of historic property. The use of the term historic property in this instance covers a wide range of assets, and may include buildings, structures, land, archaeological sites, ships, aircraft, and other cultural resources of historic significance. This is the most commonly quoted and applied part of the NHPA.

Section 110 makes federal agencies responsible for the protection of government owned historic properties, and the preferential integration of historic properties into federal government usage before other options are considered.

The heads of all federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each federal agency shall use, to the maximum extent feasible, historic properties available to the agency.⁷

Section 110 establishes the position of Federal Preservation Officer (FPO), who is to oversee their agency's fulfillment of historic preservation requirements.

Section 111 of the NHPA requires the implementation of alternatives for surplus historic buildings when practicable, as opposed to other actions such as demolition. These alternatives may include adaptive re-use, leasing, or its exchange for a comparable historic property that might better suit the government's needs.

⁷ National Historic Preservation Act, Section 110 (a) (1).

The decision to retain or dispose of historic federal property fall under sections 110 and 111, which are not as detailed a set of governing regulations as the ones that require review and comment for federal undertakings under section 106. This allows for somewhat greater flexibility and judgment from the parties involved in regards to the required consultations of those two sections, but it is a significant responsibility nonetheless. Once a property has been evaluated and other federal needs for usage have been considered under sections 110 and 111, consideration under section 106 then occurs.

Assessing Compliance Under NHPA Preservation Regulations and Directives

When assessing federal property for exterior modification, additions, disposal, demolition, or other significant actions, in order to follow the federal historic preservation compliance regulations of the National Historic Preservation Act (NHPA), five steps must be first accomplished by a federal government property holder:

Step 1. Section 110 of NHPA requires the federal agency to request the State Historic Preservation Officer (SHPO) for a determination of eligibility for the property to be included in the National Register of Historic Places. The federal agency must provide research about the significance of the property, historic, architectural or technological, for the SHPO to make this determination. This usually will require contracting with an architectural historian or preservation professional to accomplish the research. In the case where more than one federal agency is involved, the agency who acts as

property owner is the lead agency, however, this does not necessarily make it “all powerful,” able to make determinations or take actions over the protests of other federal stakeholders.

Step 2. Section 106 of NHPA requires the federal agency to "make a determination of effect" (no effect, no adverse effect, adverse effect with mitigation) of the proposed federal project undertaking at the property in question. If the SHPO has already determined that the property meets the criteria for inclusion in the National Register of Historic Places, this could require the use of already existing information on file about a property, or contracting for the services of an architectural historian or a preservation professional.

Step 3. Section 106 then requires the concurrence of the SHPO be sought for corroboration of the federal agency's determination of effect. In the case of the GSA, this discussion is initiated by the Regional Historic Preservation Officer (RHPO), who works in the Agency's geographic area in question, and this action requires numerous meetings and negotiations.⁸ The GSA Federal Preservation Officer (FPO) does not get involved in most of these discussions, but will be copied on any decisions or questions brought up during the course of action that are spearheaded by the RHPO. The recognition of a determination of adverse effect, with or without mitigation, requires

⁸ For administrative purposes, the GSA has broken up the nation into a number of regions, and all of these deal with their own properties of projects on a day-to-day basis, with oversight and guidance from the GSA Central Office in Washington DC. Region 1, for example, comprises the six New England States, while Region 11, more commonly referred to as the National Capital Region (NCR), covers all of the District of Columbia plus portions of northern Virginia and Maryland. Region 4 includes all of the states in the Southeastern US east of the Mississippi River. Further details and an interactive map for the entire country may be found at <http://www.gsa.gov/portal/category/22227>. Last accessed 18Mar2013.

the development of a Memorandum of Agreement (MOA) between the federal agency, the SHPO, and consulting parties to the action (eg. The National Capital Planning Commission (NCPC),⁹ the National Trust for Historic Preservation (NTHP),¹⁰ any citizen's associations that might exist with a specific interest in that property, etc.), prior to moving forward.

Step 4. If there is disagreement between the federal agency and the SHPO on the “determination of effect” (such as when the federal agency claims there is no adverse effect and the SHPO claims there is one), the Advisory Council on Historic Preservation (ACHP) can be requested, by any interested party, to participate in mediation and in a determination of the effect.

Step 5. Mediation then takes place to: (1) reach a Memorandum of Agreement, or (2) to the point where the federal agency determines that it wishes to terminate mediation and request that the ACHP declare that compliance requirements have been met, enabling the federal agency to move ahead with their project undertaking.

For example, based on the time frame for the recent demolition of two properties in the DC Navy Yard Annex historic district, the time to accomplish the consultation on a particular federal undertaking might be two or three months each for steps one through

⁹ The NCPC is a U.S. government agency that provides planning guidance for Washington, D.C. and the surrounding National Capital Region. Its 12-members meet monthly to adopt, approve, or provide advice on plans and projects that impact the nation's capital and surrounding areas. See http://www.ncpc.gov/ncpc/Main%28T2%29/About_Us%28tr2%29/AboutUs.html Last accessed 18Mar2013.

¹⁰ The NTHP is a member-supported organization that was founded in 1949 by congressional charter to support preservation of historic buildings and neighborhoods through a range of programs and activities. More details on the NTHP follow throughout this thesis.

four, and six months for step five, for a total of fifteen months. Hence, even the simplest project requires a significant investment in time when a federal agency complies with Sections 106 and 110. This also means that any project most probably has to survive two or more budgeting and finance cycles.¹¹

Of the possible steps, termination of consultation is the most controversial, and is to be avoided if at all possible. Calling an end to mediation between parties prematurely and making determination by fiat, such as was done by the GSA with the Winder Building demolition in 1975, is what gets agencies in trouble, and increases the possibility of legal action in the courts. Understanding the intent of legislation is not enough, one must be able to understand the interests of all the involved parties to an action. A decision to end consultations impacts other agencies who are tied up in the process (in a sort of 'guilt by association') because they were involved at some point in the consultation process, and does not further a cooperative or trusting relationship for undertaking future joint work.

¹¹ A prospect that appears to be a riskier proposition with each passing year.

The National Environmental Policy Act (NEPA)

The National Environmental Policy Act of 1969 (NEPA) established the U.S. national policy that promotes the enhancement of the environment. The Act ensures that environmental factors are taken under consideration by federal agencies when undertaking of any action, and projects must meet NEPA guidelines when an agency provides financing for the action in question. The Act set up procedural requirements for all federal agencies in regards to environmental assessments (EA's) and environmental impact statements (EIS's), and also established the President's Council on Environmental Quality (CEQ). The procedural requirements found in NEPA apply to the agencies of the federal executive branch, but specifically not the President, Congress, or the Courts. The breadth of NEPA's impact has expanded considerably through interpretation by the courts in the four decades since its enactment.

The term “environment” in this context refers to the human environment, and undertakings that impact historic properties therefore fall under the NEPA umbrella. This is a fact which is often overlooked or misunderstood by the public. NEPA can therefore be a valuable tool whose intricacies it is important to understand.

An Agency may use the NEPA process and the documents that it produces to comply with Section 106 in lieu of the procedures set forth in NHPA Secs. 800.3 through 800.6, a method which is specifically allowed by NHPA Section 800.8 (c). To do so, the Agency has to follow these steps:

- Notify the SHPO/THPO and the ACHP that the NEPA process will be used for the undertaking (no concurrence from those so notified is required).
- The consulting parties must be identified and invited to participate in the NEPA process (so as to comply with Section 800.3(f)).
- Historic properties and effects of the undertaking within the area of potential impact must be identified so as to comply with Sections 800.4 and 800.5, and “the scope and timing of these steps may be phased to reflect the Agency Official's consideration of project alternatives in the NEPA process, and the effort is commensurate with the assessment of other environmental factors.” (as in Sec. 800.8(c)(1)(ii))
- Consultation must take place with the SHPO/THPO, the consulting parties, and the public during NEPA scoping, analysis and documentation.
- Alternatives and minimization/mitigation methods must be developed in concert with the consulting parties, and those methods and consultations must be described in the Environmental Assessment (EA) or Draft Environmental Impact Statement (DEIS).

It should be understood that the majority of everyday cases involving historic properties do not utilize the NEPA process, but highly complex projects undertaken by the federal government benefit from its use. At the GSA, it has become the preferred methodology, and is part of agency policy.

Unfortunately, some of the side-effects of the NEPA process is its complexity, and the lack of familiarity that some consulting parties have with it. This unfamiliarity has been known to cause misunderstandings.¹² In addition, because NEPA requires consideration of all feasible alternatives and the recording of that investigative process, it delays the focus of decision-making on a specific area, building, or artifact when the consultative process is begun under NHPA Section 106.¹³

Executive Orders

Executive orders are issued by the President of the United States, and the authority for their use is found through interpretation of the US Constitution's executive power grant found in Article II, Section 1, Clause 1, and also in Article II, Section 3, Clause 5 which requires the president to enforce the laws of the land. The first Executive Orders can be traced back to declarations made by George Washington in 1789, and they are intended to clarify or further act on a law put forth by the Congress or the Constitution, not to make new law.¹⁴ Executive Orders generally are not concerned with buildings; they regard policy or are issued as directives to agencies of the Federal government on how to pursue particular issues. Although they are often challenged, out of thousands of Executive Orders issued, only two have ever been overturned as unlawful. That being said, Congress can elect not to fund an action prescribed by an Executive Order, nullifying its effectiveness.

¹² We will see examples of this at the St. Elizabeths NHL undertaking in chapters to follow.

¹³ In St. Es project NEPA investigation, over a dozen alternatives were investigated and discarded over a period of just under four years while other aspects of the project planning progressed. Details are provided in the chapters that follow.

¹⁴ Executive Orders in Times of War and National Emergency: Report of the Special Committee on National Emergencies and Delegated Emergency Powers, United States Senate. 93rd Cong., 2nd sess. (1974). USGPO. p. 23.

Executive Order 11593, “Protection and Enhancement of the Cultural Environment”

Signed May 6, 1971 by President Richard Nixon, Executive Order No. 11593 provides the mandate to survey and nominate historic properties owned by the Federal government. More specifically, this executive order directs federal agencies to inventory their cultural resources and establish policies and procedures to ensure the protection, restoration, and maintenance of federally owned sites, structures, and objects of historical, architectural, or archaeological significance. Federal agencies are required to locate, inventory, and nominate all properties under their jurisdiction or control that appear to qualify for listing in the National Register. This also requires agencies to record any listed property that may be substantially altered or demolished as a result of Federal action or assistance and to take necessary measures to provide for maintenance of and future planning for historic properties.^{15 16}

Executive Order 12072, “Federal Space Management”

Signed by President Jimmy Carter August 16, 1978, Executive Order No. 12072 calls for effective and cooperative space management for federal agencies, and the consideration (not the requirement) of using historic properties for space needs. It states that serious consideration must be given to the impact of site selection when

¹⁵ This information from <http://www.achp.gov/book/sectionVI.html> Last accessed 08Feb2013

¹⁶ Despite this directive in 1971, four decades later there are thousands of properties as yet to be investigated and have their eligibility determined, in some part because of agency resistance, and in other cases because of manpower and budgetary constraints. Some properties that were just built when Executive Order 11593 was enacted will soon be eligible and listed, showing that this task may never be complete.

seeking space in an urban setting, and to what that selection will have on improving the social, economic, environmental, and cultural conditions of the local community. It sets out that procedures for planning, acquisition, utilization, and management of Federal space needs in urban areas are to include considering “Utilization of buildings of historic, architectural, or cultural significance” and it specifically directs the Administrator of the GSA “In ascertaining the social, economic, environmental and other impacts which site selection would have on a community, the Administrator shall, when appropriate, obtain the advice of interested agencies.”¹⁷

Executive Order 13006, “Locating Federal Facilities on Historic Properties in Our Nation's Central Cities”

Signed by President William J. Clinton May 21, 1996, Executive Order No. 13006 calls upon Federal agencies to give not just consideration, but first consideration, to utilizing historic properties in historic districts when locating Federal facilities, whenever economically prudent and operationally appropriate. If no such historic property is suitable, agencies must then next consider use of other non-federal properties in historic districts, and then historic properties outside of historic districts. It also states that any construction or rehabilitation undertaken by Federal agencies must be architecturally compatible with the surrounding historic properties. This Executive Order also directs Federal agencies to reform regulations and procedures that impede location of Federal facilities in historic properties or districts, and to seek the ACHP's assistance in this effort. It calls upon Federal agencies to seek

¹⁷ 40 U.S.C. United States Code, 2011 Edition, Title 40 - Public Buildings, Property, And Works, Subtitle I - Federal Property And Administrative Services, Chapter 1 - 1-General, Subchapter Iii - Administrative And General, Sec. 121 – Administrative. USGPO.

partnerships with States, local governments, Native American tribes, and private organizations to enhance the Nation's preservation program.¹⁸

Executive Order 13287, “Preserve America”

Signed by President George W. Bush March 6, 2003, Executive Order 13287 establishes policy that provides for federal leadership in the preservation of America’s heritage. It does this by advancing the protection, enhancement, and use of historic properties owned by the Federal government. The order encourages agencies to seek partnerships with other branches of government and the private sector to make more efficient and informed use of historic properties. The order requires Federal agencies to review and report on their policies and procedures for compliance with NHPA, Section 110 and 111, to improve Federal stewardship of historic properties, and to promote their long-term preservation and use to contribute to the economy of communities of which they are a part. This Executive Order requires the head of each agency to designate a Senior Policy Official, and directs the Secretary of Commerce to use existing authorities and resources to assist developing local and regional heritage tourism programs, thereby stimulating the local economy.

Executive Order 13327, "Federal Real Property Asset Management"

Signed February 6, 2004 by President George W. Bush, Executive Order 13327 establishes the Federal Real Property Council (FRPC), in order to develop guidance for each agency’s asset management plan. The Senior Real Property Officer (RPO) of

¹⁸ This information from <http://www.achp.gov/book/sectionVI.html> Last accessed 08Feb2013.

each agency is required to develop and implement an asset management planning process that meets the form, content, and other requirements established by the FRPC. In relation to cultural resources, the Senior RPO incorporates the planning and management requirements for historic properties under E.O. 13287 (“Preserve America”). It defines “Federal Real Property” as any property owned, leased, or managed by the Federal Government, both inside and outside the United States.¹⁹

The Federal Antideficiency Act

This act prohibits federal employees from making any expenditures or obligations in excess of congressional budget appropriations unless specifically authorized to do so by law.²⁰ In essence it prevents overrunning the budget for any agency or project, and can cause the cessation of any undertaking if funding is cut off by Congress. This act could lead to an agency choosing not to pursue regulatory enforcement if funding is short, or to put off mediation efforts indefinitely until additional funding is provided. The Federal Antideficiency Act can therefore be used as a tool, or an excuse, for not moving forward with efforts or regulations otherwise required by law. The only way to overcome this act is through legal action brought by non-federal parties against the agency in question, and this action would only be effective then if a court judgment leads to an allocation by Congress.

¹⁹ Information from <http://www.fs.fed.us/eng/toolbox/his/his03.htm> Last accessed 08Feb2013.

²⁰ 31 U.S.C. § 1341(a)(1)(A). More information may be found at <http://www.gao.gov/legal/lawresources/antideficiencybackground.html> Last accessed 21Apr2013

Legislation such as NHPA, NEPA and Executive Orders, when combined with operational and legal precedents, work together to protect the cultural resources in the United States. This connective web was built to protect of our tangible heritage, and each layered addition helps close gaps in the net. However, as we will see in chapter three, these protections are only as good as the will to enforce them, the availability of funding, and the presence of vocal advocates to lobby for their use. By cutting funding in the past, Congress has stymied the implementation of Executive Orders and legislation, and the Federal Antideficiency Act serves to make any failure to enforce such regulations and Orders implicitly legal.

CHAPTER THREE

Background:

The Winder Complex and The African Burial Ground National Monument



Illustration 1: Winder Building, 17th and F St NW, Washington DC, taken between 1860 and 1880. Photographer: Matthew Brady Studio. Source: Library of Congress, Image ID# [loc.pnp/cph.3c35530](https://www.loc.gov/pnp/cph.3c35530) Last accessed 13Apr2013.

To discuss how the GSA has grown into a government agency that is so influential in preservation, we must discuss two pivotal cases of the past, the Winder Complex and The African Burial Ground National Monument. These were not the most shining moments in agency history, but we often learn as much or more from our mistakes as

we do from our successes. Avoiding the pitfalls of the past is easier if we understand how they were encountered before.

The Winder Complex

The Winder Complex demolition in Washington DC by the GSA in 1975 was an early and extremely blatant attempt by a Federal Agency to ignore the NHPA. The GSA was brought to court by a citizens group, *Don't Tear It Down*,²¹ to halt demolition of the NRHP listed building and three potentially eligible buildings adjacent to it.²²

The main structure, the Winder Building, was built in the early 1850's and designed by Robert Mills, who also designed the Washington Monument and numerous other buildings in Washington DC, Philadelphia, Richmond, Baltimore, Atlanta and his native Charleston, South Carolina. The Winder Building housed the War Department during the Civil War, and was the site of several pivotal federal government meetings following the death of President Abraham Lincoln. It is located at the corner of 17th and F streets NW in Washington DC., in one of the more prominent locations in the Capital, directly across the street from the Old Executive Office Building, a few hundred yards from the White House, two blocks from the Mall, one block from the GSA's central office building at 18th and F Streets NW, and two blocks from the Department of the of Interior's central office building.²³

21 *Don't Tear It Down* is now known as The DC Preservation League.

22 For further information see Appendix A.

23 This last location is where the National Park Service and the Keeper of the National Register have their offices.

The GSA had notified the ACHP that it intended to build a new office building, and in so doing so demolish the Winder complex of buildings. The Council pointed out that NHPA due diligence needed to be done, the required reports would take time to create, and the three additional buildings in the complex might also be potentially eligible for the NRHP. GSA was advised that it needed to comply before it could attempt to move forward with any plans.

The GSA failed to respond to the Council's letter advising it of these points, and so the ACHP made a request directly to the Secretary of the Interior to determine the NRHP eligibility of the additional structures on site. The Secretary found the buildings to be potentially eligible within only days, and notified both the GSA and the Council of that determination.

A week after that communication, the GSA finally did respond. It informed the Council that it had decided to demolish the buildings anyway, but strangely enough, it also stated that it was willing to participate in the Council's consultation process. After a single consultation meeting in February 1975, the GSA began an unannounced demolition of the structures on the first Sunday in March, clearing one building completely, leaving nothing but the facade on a second, and removing part of the roof on a third.²⁴ The citizens group *Don't Tear It Down* obtained a restraining order on

²⁴ All this work on a Sunday must have set a record for demolition speed in DC, especially since use of explosives was probably out of the question on short notice in the center of the Capital.

Monday to prevent further demolition. The GSA immediately moved to have the order overturned, and the court refused.

Now, it must be pointed out that the ACHP Board of Directors, by definition, includes several Federal agency heads, one of which is the GSA Administrator. At the time the Administrator was Arthur F. Sampson, a second-term appointee of the Nixon administration (and by then serving under Gerald Ford). At the April ACHP meeting (moved up from May due to the urgency of the issue at hand), Mr. Simpson said the GSA had gone ahead with demolition because agreement was unlikely, any more consultation was futile, and so the GSA therefore didn't have to comply with Section 106 or the Council's regulations.

It should be noted that this action also could have been in violation of Executive Order 11593, in force since 1971, to inventory, nominate and record NRHP eligible properties before they were substantially altered or demolished.

After the lawsuit was filed, the court subpoenaed audio recordings of the ACHP's April board meeting, which the GSA subsequently (but unsuccessfully) sought to suppress. This was what was found by the court when it listened to the recordings (emphasis added):

The staff, according to Sampson, was intransigent, inflexible and had "the power to control and/or influence the Council." Further consultation, thought Sampson, would be futile. The legal requirements were thus not deemed necessary and demolition began. The "simple" explanation, then, reduced

itself to a statement that Sampson believed that the Council (of which he was a member) was under the misguided tutelage of its own staff and the staff would never agree with Sampson's views. Therefore, further consultation was in vain and would not be carried on despite the legal mandates.²⁵

The court found that the actions of GSA prior to the Council meeting were in contravention of the policies expressed in NHPA and of the Council's regulations. The GSA moved to a stance of compliance, issued an apology, and the court then declared any additional action on its part would be moot. Mr. Arthur F. Sampson's three year period at the helm of the GSA ended several weeks later, however, we will never know if his retirement had any direct connection to the GSA's handling of the Winder Complex.²⁶

²⁵ Ibid, Appendix A.

²⁶ <http://www.nytimes.com/1988/03/15/obituaries/arthur-f-sampson-is-dead-at-61-led-gsa-under-nixon-and-ford.html> Last accessed 12Apr2013.

The African Burial Ground National Monument

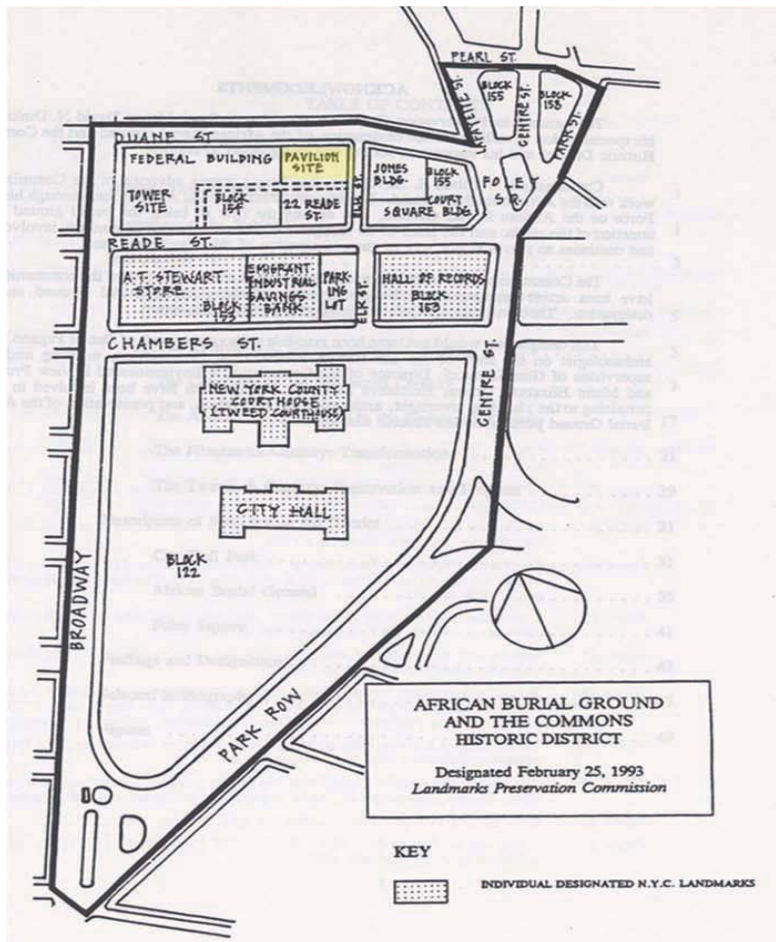


Illustration 2: African Burial Ground and the Commons Historic District. Source: <http://geographer-at-large.blogspot.com/2011/01/african-burial-grounds-update-and.html> Last accessed 01Mar2013.

The African Burial Ground National Monument (ABG) began its design phase in the late 1980s as the Ted Weiss Federal Building, 290 Broadway in lower Manhattan. Because of sloppy research, a lax archaeological site investigation and a cursory nod toward regulations in Sections 106 and 110 during the preliminary master planning phases, it was destined to become a watershed moment for the protection of resources

of cultural significance.²⁷ Along the way, it exposed a little-known aspect of life in colonial and federal-era America: the existence of a thriving slave culture in the northern portion of the colonies that became the United States. The site's excavation and study has been referred to as "the most important historic urban archeological project in the United States."²⁸

The handling of the ABG discovery also highlighted a change that was occurring in the way professionals inside and outside the federal service understood and interacted with historic communities during site investigations, moving from a policy of avoiding contact with the local community and making determinations solely based on scientific observations, to one of engagement, interaction and contact.²⁹

The Federal Government, as represented by Region 2 of the GSA, acquired land in lower Manhattan to construct a new Federal building and an associated pavilion. When excavation began, nothing archaeologically significant was expected by the project team as there had been a considerable amount of construction in lower Manhattan in the 350 years since it was first settled by Europeans. In addition, the area had been filled with up to thirty feet of soil more than a century before, raising the ground level significantly. The CRM firm hired to do the research and archeology expected anything significant left on that site to have been long dispersed or be minimal in scale.

27 Dr. Sherene Baugher interview, 15Nov2012.

28 National Parks Service African Burial Ground website: <http://www.nps.gov/afbg/index.htm> Last accessed 14Apr2013.

29 Dr. Sherene Baugher interview, 15Nov2012.

Dr. Sherene Bauer was the archaeologist of the city of New York until just before the time when ground was broken at the site of the new federal building in downtown Manhattan.³⁰ During her time there, she was aware of sites near the future federal office building where remains had been found, and other locations in that neighborhood where undisturbed areas below 19th century basements had yielded valuable cultural artifacts from colonial and pre-European contact periods.³¹

Three cultural resource firms bid on the archaeological investigation contract that was to take place on a compressed time-line, just ahead of major construction activities on the site. The highest bidder was chosen for the archaeological investigation, although unfortunately it was the lowest bidder who had the greatest qualifications in the investigation of African burial grounds in the northeastern and Atlantic region of United States. The new federal building was to be a skyscraper on a site that had never been excavated to any significant depth, to place a large-scale structure with deep footings and a multi-level basement on it. Before excavation began, the NYSHPO representative, a non-archaeologist, was assigned as the one to be notified in the event of any discoveries.

When the archaeological investigation commenced on the site, it was done with a mind toward keeping to the project time line. There was little transparency to the process, and it all took place behind construction hoarding that obscured the view of the site from the street. However, archaeologist Daniel Pagano from the NYC

30 This was in 1990. Dr. Baugher began working at Cornell in 1991, and currently holds the position of Professor in the graduate fields of Landscape Architecture and Archeology.

31 Dr. Sherene Baugher interview, 15Nov2012

Landmarks Preservation Commission with a camera was able to document inadequate archaeological procedures being used on the site. Human remains appeared to have been found in significant quantity, standard procedures for excavating those remains were not being followed, legal municipal notifications to the city coroner were not being made, and what documentation there was did not appear to be of a high standard.³²

The CRM firm that was hired for the archaeological investigation was one that did not believe in involving the local cultural community in its processes. This meant that the local African-American community had no prior knowledge or input into the choice of this site or its excavation. When the story leaked out about what was happening behind the construction hoarding at the new federal building downtown, the backlash was severe.

Local activists, African-American community members, and professionals in archeology, CRM, and historic preservation were uniformly outraged. The GSA Region 2 Administrator claimed an inability to stop the project or change its scope without direction from above. Coincidentally, New York City was operating under its first African-American mayor, and had its first African-American Congressperson in Washington. Although the GSA claimed it had performed to the letter of the section 106 requirements of the NHPA, the community felt that it had not acted in the spirit of that act. Congress stepped in as the furor rose, and held hearings on the project.

32 Harrington, Spencer PM. "Bones and Bureaucrats: New York's Great Cemetery Imbroglio." *Archaeology Magazine*. March/April, 1993

One of the watershed moments for the project occurred when the head of the GSA was told by Congress that all funding for GSA projects was going to be frozen until a proper plan was created to deal with the discoveries at the African Burial Ground. This forced the suspension of all work on the site, and led to the hiring of cultural resource firm John Milner and Associates, who had an extensive background in the investigation of African burial grounds from the colonial period of America.

During the excavations, over 400 graves were discovered, and there appeared to be many, many more yet to find. At a certain point, local African-American community members and Congressional representatives called for the new federal office building construction to be stopped completely on the site of the African burial ground. It was decided to redesign the building for a smaller footprint, and not to utilize new land beyond its existing spaces. Design work to create a new memorial and a Museum on the site of the African Burial Ground began.

The National Park Service estimates that there are 15,000 graves from the 17th and 18th centuries located on the whole burial ground site, in a space not limited by the borders of the property today. The location was quickly made a National Historic Landmark, and in 2006 was declared a National Monument. Although that outdoor memorial took several years to create, eventually the re-interment of remains took place. The museum promised for the site finally opened in 2010, nearly two decades after the initial discoveries were made.

At the ABG, at least 11 federal, state and local government departments and agencies eventually became involved. Many of these entities had signed onto the project during the site's consultation phase as a federal office building, and had made their determinations based on information provided to them by the GSA's hired contractors and consultants. When this information proved incomplete or incorrect, it affected relations at several levels.

Like the Winder Complex case, the ABG happened well after Executive Order 111593, but it still preceded the various preservation-oriented Executive Orders of the mid-1990's and early twenty-first century. As soon as “discovery” took place, the ABG project became concerned not only with mitigation of impacts to the site's cultural resources, but also mitigation of damage to the reputation of the Federal government and the GSA in particular.

Even after the whole federal office building project was revamped, redesigned, and a new memorial, interpretation center and museum were constructed, a great deal of anger remained in the African-American community over the way the discovery was handled. In the end, it took nearly twenty years to complete discussions on the completion of the ABG project (including a memorial, an interpretation center and museum), and it was by no means a pleasant series of public consultations.³³ The way the early hours and days of the discovery unfolded set the stage for the next two decades, and continues to be recalled a colossal public relations disaster today.³⁴ It is

33 Joan Brierton, GSA. Interview 15Jan2013.

34 Joan Brierton, GSA. Interview 15Jan2013.

possible that, without the embarrassment of the ABG,³⁵ the GSA could or would not have put extensive resources into the preservation of historic buildings and sites in the two decades that followed.



Illustration 3: African Burial Ground National Monument. Source: http://maap.columbia.edu/mbl_place/10.html Last accessed 01Mar2013.

As was mentioned before, this project became a watershed moment for the archaeological and CRM community, and as far as having a nationwide impact on federal sites, it was every bit as important as the Penn Central determination more than a decade before. This case brought to the fore a sensitivity for descendent communities who were impacted by projects. CRM professionals who had intentionally avoided contact with descendent communities (so as not to color their

35 Not to mention the 1970 Winder Building demolition.

'purely scientific observations') saw this become a research and interpretational sea-change. It also placed the entirety of the US government on notice that it would be held the same standards as the rest of the country when it came to dealing with cultural resources. Throughout the project planning, discoveries, and execution, the National Park Service was dedicated to protecting this site, but it is important to know that the GSA only reevaluated its position when it was were forced by public attention and Congressional involvement.

Because of the African Burial Ground Project, governmental agencies became aware that they would be held accountable for dealing with all types of cultural resources. This project made them more keen on proper project design, and proper evaluation in advance of making commitments. The GSA implemented extensive efforts to mitigate physical (and public relations) damage to this site after the fact. This was indicative of a major shift within the Public Building Service at the GSA, making them much more attuned to protection of historic resources.

African Burial Ground National Historic Landmark time line³⁶:

- 1987 - The General Services Administration (GSA) began planning to provide greater office space for Federal agencies and to provide additional courtrooms and support space for the adjacent U.S. courthouse located in the Civic Center-Foley Square area of lower Manhattan. The site proposed was between Broadway, Duane, Elk and Reade streets.
- 1989 - Before construction could begin, compliance with a number of laws was required. Most important was Section 106 of the National Historic Preservation Act of 1966. It states that, before receiving funding for construction, federal

³⁶ This timeline may be found online at the military burial ground resource website site 'Fold Three' http://www.fold3.com/page/285838421_the_african_burial_ground/ Last Accessed 15May2012.

agencies must determine if the proposed site merits inclusion on the National Register of Historic Places. GSA was also required to consult with the Advisory Council on Historic Preservation and a Memorandum of Agreement was signed between the two parties in 1989.

- 1991 - The Memorandum of Agreement was amended and signed by GSA, the Advisory Council on Historic Preservation and the New York City Landmarks Preservation Commission.
- June 1991 - Human remains were discovered during archaeological testing, but by October full-scale excavation for the construction of the Foley Square Federal Office Tower Building had begun.
- 1992 - the Mayor of New York formed the Mayor's Task Force on the African Burial Ground. Members of this Task Force later formed the basis of the Federal Steering Committee.
- Early July 1992 - at least 390 burials had been removed. In response to a letter from Mayor Dinkins, GSA stated that they intended to excavate an additional 200 burials on a portion of the site that was to become a four story pavilion beside the office building.
- In mid-July 1992, Congressman Augustus Savage, Chairman of the House of Representatives' Subcommittee on Buildings and Grounds, informed GSA that no further projects would be funded until he had personally met with the GSA Administrator to review issues concerning this project.
- In late-July 1992 and immediately thereafter, meetings were held with GSA, members of congress and city agencies. It was agreed that a Federal advisory committee of primarily descendant African community leaders and professionals be established to make recommendations to GSA with regard to its Section 106 responsibilities at the site.
- October 1992- The Federal Steering Committee was chartered to represent the interests of the community and to make recommendations regarding the Burial Ground. Its mandates included: (1) the review of proposals regarding the human remains on the Pavilion site, (2) the analysis, curation and re-internment of remains removed from the African Burial Ground and (3) the construction of a memorial or other improvements on the Pavilion site. Shortly afterwards, President Bush ordered GSA to abandon construction on the Pavilion site, and approved the appropriation of up to \$3 million for modification of the Pavilion site and "appropriate"

memorialization of the African Burial Ground.³⁷

These two case studies, spaced fifteen years apart, were significant in the development of policy at the GSA, and guided the way the St. Es undertaking was approached. Just as seen with the commercial sector, the government can have difficulty with balancing the value of preservation against more easily quantifiable short-term profits. The regional nature of GSA operations means that enforcement of GSA policies and the utilization of the available corporate long-term memory is not always consistently applied across the portfolio of buildings it owns and manages. Although each GSA region has a Regional Historic Preservation Officer (RHPO) to oversee compliance with relevant regulations, the duties that employee are assigned can divide their allegiances (as detailed in chapter five), and cause difficulties in the process. This to-and-fro is a constant tension within the GSA, and the outcome often depends on the personalities involved in the decision-making process. However, it must not be forgotten that in the case of the ABG and the Winder building, it was the involvement of the public, outside the halls of government, that forced a change in the direction of these projects by the use of public relations, publicity, media coverage, and pressure on local, state, and federal officials.

³⁷ <http://www.archaeology.org/online/features/afrburial/> Last accessed 11Nov2012.

CHAPTER FOUR

St. Elizabeths Hospital National Historic Landmark



Illustration 4: Topographical map of the District of Columbia / surveyed in the years 1856-9 by A. Boschke; engraved by D. McClelland, Published 1861. St. Elizabeths Hospital is marked by a black dot added in the lower right corner. Source: DC Preservation League

The historic background behind the St. Elizabeths Hospital National Historic Landmark can be traced back to the founding of Washington DC, but the period we are most concerned about begins after 1850. In this section we will discuss the locality, the construction of the hospital, the medical advances made there and a few of its

famous patients. Finally we will cover some of the similarities and differences between St. Es as a historic site versus the Winder complex and the ABG.

Where Is St. Elizabeths?

The St. Elizabeths National Historic Landmark is part of the St. Elizabeths Hospital Historic District, in the Anacostia Hills of Southeastern Washington DC.³⁸ High on a rise overlooking the Mall, Bolling Air Force Base, and Ronald Reagan National Airport, the area was known as the St. Elizabeths district in the first few decades in the history of the District of Columbia. The initial subdivision of the area in 1854, when it was founded by John Van Hook and then known as Uniontown,³⁹ carried restrictive covenants prohibiting the sale, rental or lease of property to anyone of African or Irish descent. However, by 1877, African-American abolitionist, writer and orator Frederick Douglass moved to Anacostia, was appointed as a United States Marshal, and in 1881 he was appointed Recorder of Deeds for the District of Columbia (so in time the issue of restrictive covenants in Anacostia had definitely been laid to rest).⁴⁰ The area was important in shipping, and during the Civil War the height of land in Anacostia was advantageous for observation points and forts.

Today, this is generally considered to be an under-served portion of the District, having a greater number of its residents living in poverty than in all of Washington.

38 An exceptional map of this area, with fadeable transparent overlays showing both satellite imagery and maps dating back to the late 19th century, can be found at <http://rumsey.geogarage.com/maps/gcw0678500a.html> Last accessed 28Mar2013.

39 Note that the naming of Uniontown in 1854 was seven years before the outbreak of the Civil War.

40 Douglass lived in Anacostia until his death in 1895 (the home is now a NPS National Historic Site and listed in the NRHP). My visit to the Anacostia neighborhood to see Frederick Douglass' Home on a 106 degree Sunday in July 2012 was one of the most memorable of my time in Washington.

Census data shows that the racial makeup of the neighborhood changed from what was in the 1950s and 1960s reported as 87% White to today's 92% African-American, 5% Non-Hispanic White, and 3% Other.⁴¹ Because of high crime rates, the Anacostia area has also become infamous within the District in the last several decades.



Illustration 5: St. Elizabeths West Campus, showing a small sampling of the support buildings of various sizes, styles and usages. Source: Author photo

An Overview of St. Elizabeths Hospital History

St Elizabeths Hospital National Historic Landmark has been recognized for its social and architectural importance to the history of the United States, its connection with significant individuals, and advancements in the treatment of mental health. Listed on the National Register in 1979 and as a National Historic Landmark in 1990, it remains one of only 2500 sites to have been so recognized. In addition, on May 26, 2005 the St. Elizabeths Historic District was approved by the District of Columbia Historic Preservation Review Board (DCHPRB). Since December 2004 the General Services

⁴¹ 2010 US Census data.

Administration (GSA) has overseen the care and management of the Western portion of the District, and the District of Columbia Mental Health Services controls the Eastern section.

Saint Elizabeths Hospital is reported to be the most historically significant hospital for the treatment of the mentally ill in the United States. Originally named the Government Asylum for the Insane, it was established in 1852 east of the Anacostia River on the land patent known as Saint Elizabeths. The institution quickly became a model for national, state and local institutions of this type across the nation. The name was changed during the American Civil War, dropping the terms “asylum” and “insane” when it also began to be used as a hospital for wounded and sick soldiers. There are two cemeteries on the property containing the remains of members of the military services, including a strictly Civil War-era National Cemetery overlooking the Anacostia River, and another on the East campus containing both deceased patients and service members.

The hospital was initially established by Congress to serve the residents of the District of Columbia and mentally ill members of the armed forces. It was done largely at the urging of educator and reformer Dorothea Dix, former Civil War Superintendent of Army Nurses, who struggled for the improvement of the treatment of prisoners and the mentally ill. Dix believed the mentally ill could be cured, or at least their condition improved, if their living conditions were similarly improved. Before St. Es, the insane had often been confined "in cages, closets, cellars, stalls, pens; chained, naked, beaten with rods and lashed into obedience." Since it was widely believed that the insane did

not feel cold, they were not given clothes or blankets, and asylums often charged visitors admission to stare, according to Dix's biography.⁴²

Among Dix's allies was Dr. Thomas Kirkbride, the medical superintendent of the Pennsylvania Hospital for the Insane, and part of a group that presaged the foundation of the American Psychiatric Association. Kirkbride was a Quaker, and developed the idea of a “linear plan” for mental hospital wards, with private rooms along corridors that provided plenty of light and air. This concept also allowed for the easy observation of patients while still giving them what we would now call their own 'personal space.' He published the text *On the Construction, Organization and General Arrangement of Hospitals for the Insane* in 1854, at the same time as the Center Building of Saint Elizabeths Hospital was being built.

The four-story castellated Gothic Center Building was designed by Saint Elizabeths superintendent Charles Nichols with the assistance of Thomas Walter, the Architect of the Capitol. Nichols was familiar with Kirkbride's ideas and, with modifications, incorporated them in his design, providing an arrangement that included offset symmetrical transverse wings. The Center Building opened for patients in 1855, and Kirkbride was so taken by how the plan developed that he published a copy of it in the second edition of his book.

42 Dorothea Dix, as quoted in Gollaher, David: Voice for the Mad: The Life of Dorothea Dix. Free Press: New York, 1995.

As the patient population increased, so did the size of the hospital physical plant, with the Center Building receiving seven new residential and support wings over the next few years. Mental health theory progressed as well; in part because of the success of the Kirkbride plan, the salutary effects of light, air, landscape and activity worked to good effect. Another environmental factor was that many patients were placed in smaller, more cottage-like buildings which were independent of the main structures. The West campus now is a complex of brick buildings, each one different from all the others on the site.

Most of the campus, however, was left open for trees, grass, and gardens. The site planning was done, in part, by Frederick Law Olmstead's firm in Boston, influenced by the Romantic movement with curvilinear paths and roads lined with trees and plantings. Patients tended these landscapes and raised food as part of their therapy on another tract on the east side of Asylum Road (now Martin Luther King Jr. Avenue). This newer section, purchased in 1869, is now referred to as St. Elizabeths East campus. It served as a working farm for nearly a century.

Saint Elizabeths West campus includes many support buildings, including a central kitchen, a boiler house that served the entire facility, an ice plant, a bakery, a dairy, a firehouse, multiple greenhouses, gatehouses, and animal and hay barns. Between 1890 and 1900 the structures began to be more formally sited along roadways and a central quadrangle. These newer buildings were more Beaux-Arts influenced in contrast to the previously built Victorian structures, and were designed by the Boston

architectural firm Shepley, Rutan and Coolidge.⁴³ In 1902, the building campaign moved across the road to the East campus, with residential, treatment, laboratory, and support buildings slowly replacing the operating farm.

As mentioned previously, Saint Elizabeths was a leader in the “moral treatment” of the mentally ill. The hospital was also the first in the United States to provide this particular type of asylum treatment for African Americans, to both those serving in military service and those in civilian life. This was done by providing 'separate but equal' facilities. By the 1880's St. Es was also on the cutting edge of brain physiology and pathology, and it was one of the the first American institutions to practice psychoanalysis. It performed its own autopsies on site, and eventually hosted a brain collection numbering in the thousands. The hospital pioneered the use of hydrotherapy to calm patients, and was also pivotal in the development of malarial therapy.⁴⁴

St Elizabeths' most famous former inmates include Ezra Pound (poet and Fascist sympathizer who was arrested by Allied forces upon invasion of Italy), John Hinkley Jr. (who attempted assassination of President Ronald Reagan), Richard Lawrence (who attempted the first presidential assassination in US History, misfiring twice at Andrew Jackson in 1835), and Charles Guiteau (assassin of President James Garfield in 1881).

⁴³ Shepley, Rutan and Coolidge was the successor firm to Henry Hobson Richardson's architectural practice. Each principal worked in Richardson's firm at the time of his death in 1886, and they completed all of the unfinished projects left behind by him. The firm continues today as Shepley Bulfinch.

⁴⁴ National Register nomination #79003101, St. Elizabeths National Historic Landmark listing. US National Park Service.

St. Elizabeths Hospital, at its peak in the mid-1940's, had over 7,000 patients. Today the West campus is vacant, and the East campus houses a patient population of less than 500 in a new building opened in 2010, which is operated by the District of Columbia Mental Health Services (DCHMS). The bulk of that East campus had been transferred to the District of Columbia in 1987, and although DCMHS was nominally overseeing the east and west properties for several years, the Federal Department of Health and Human Services (HHS) officially had possession of the property until December 2004.⁴⁵

The St. Elizabeths Hospital National Historic Landmark is a site significant in American history, however, unlike the African Burial Ground, it doesn't have a viable, vocal survivor community to advocate for it. This point makes protection of the site difficult in ways that ABG or the Winder complex did not. In closing, Rob Nieweg of the National Trust for Historic Preservation stated this problem succinctly:

In Manhattan, your survivor community were the actual or spiritual descendants of the African American slave community. Who is your survivor community at St. Es? The descendants of insane people?⁴⁶

45 An exceptional video report on the history of St. Es by National Public Radio (NPR) may be found at <http://www.npr.org/blogs/pictureshow/2010/05/03/126475263/stliz> Last accessed 01Mar2013.

46 Rob Nieweg & Elizabeth Merritt interview, 21Feb2013.

CHAPTER FIVE

The U.S. General Services Agency and the Department of Homeland Security: The Landlord and the Tenant



Illustration 6: Illustration : GSA Central Office, 1800 F Street NW, Washington DC. Source: GSA

In this chapter the history and operation of the General Services Administration is covered, including an overview of the Public Buildings Service and the Center for Historic Buildings. We will also look at the creation and operation of the Department of Homeland Security as the prospective tenant for the St. Elizabeths site. The reasons behind the proposal to place the DHS headquarters on the St. Es west campus are outlined and placed in context with an overview of their existing facilities within the in the District of Columbia.

The General Services Administration (GSA)

The GSA is an independent agency of the federal government, created in 1949 at the behest of President Harry S. Truman to assist in the supply, management, and support functions of federal agencies. General Jess Larson, Administrator of the War Assets Administration, was named the GSA's founding Administrator, and his first job was a complete renovation of the White House from the exterior walls inward (finished in 1952). Today the GSA has a staff of 12,000 with an annual operating budget is about \$26 billion. The Agency oversees \$66 billion in procurement per year while managing \$500 billion worth of federal property and a 210,000 vehicle motor pool. It includes the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), the Office of Government-wide Policy (OGP), Office of Small Business Utilization (OSB), the Office of Civil Rights (OCR), and the Office of Citizen Services and Communications (OCSC).

The Public Building Service (PBS) within the GSA has the stated mission “*To provide superior workplaces for federal customer agencies at good economies to the American taxpayer.*”⁴⁷ The PBS acts as the landlord for the federal government. It provides space through acquisition, new construction and the leasing of private property, while it also acts as caretaker for federal properties across the country. PBS owns or leases 9,624 properties, which includes roughly 370 million square feet of workspace for 1.1 million federal employees at a variety of agencies.⁴⁸ It is quite

47 <http://www.gsa.gov/portal/content/104444> Last accessed 26Jan2013.

48 <http://www.gsa.gov/portal/content/104444> Last accessed 26Jan2013.

literally the largest commercial property management firm in the world, and when PBS makes a decision it has an impact across the entire public and private commercial real estate marketplace. PBS is funded primarily through the Federal Buildings Fund, which is supported by the rent from federal customer agencies.

In the GSA's real estate inventory are many buildings that are significant because of their role in American history, architecture, or culture. One third of the over 1,500 buildings in the GSA's portfolio are over 50 years old; more than 400 of these are eligible for or listed on the National Register of Historic Places (NRHP).⁴⁹ They include large monumental courthouses, custom houses, federal buildings, and smaller historic buildings (such as railroad stations, city libraries, hotels, sanitariums or banks) that were acquired for use by federal agencies. The GSA's design, construction, acquisition, and disposal activities impact not only these buildings, but the social and economic life of the communities surrounding them.

The GSA Center For Historic Buildings

GSA's Center for Historic Buildings (CHB) is part of the Office of the Chief Architect, a department within the PBS. CHB helps maintain compliance with both the spirit and substance of the NHPA, NEPA, many Executive Orders and a plethora of additional regulations. Because of the GSA's overall size and status, its budget, the large stable of historic properties involved, and its well-qualified staff, the preservation activities and policies of the CHB are extremely influential. The CHB spearheads the

⁴⁹ <http://www.gsa.gov/portal/content/104444> Last accessed 26Jan2013.

development of historic preservation strategies that are used to evaluate the viability, reuse, and integrity of historic buildings the GSA owns, leases, or might consider acquiring. It takes the lead on the production of National Register nominations of GSA-owned properties, the creation of Historic Building Preservation Plans (BPP's) and, when a building is transferred out of federal service (sold), it insures that the historic character of the structure (e.g.: any artwork that might be part of the building such as murals or sculpture) is protected through the use of restrictive covenants included in the sale agreements. It performs preservation services on contract for other federal agencies who are unable perform these tasks themselves.

The philosophy behind the GSA's stewardship of historic properties can be found in a 1999 publication "Held in Public Trust: GSA Strategy for Using Historic Buildings," which was produced by the CHB. A follow-up called "Extending the Legacy" was released in 2004 and 2008, and it includes updates, trends, and coverage of new resources.⁵⁰ Another CHB publication, "The Historic Property Disposal Guide," was released in 2008, and is an invaluable document covering policy, procedure, and practice on all aspects of Historic Building ownership, not just disposal, and includes a CD-ROM disk with forty-eight reference documents. The CHB has produced several books which are pivotal in understanding government actions surrounding historic properties, however, there has been much less publishing activity since 2008 as the GSA concentrates on making individual releases online.

⁵⁰ http://www.gsa.gov/graphics/pbs/pbs_preservation.pdf Last accessed 26Jan2013.

In an interview, William J. Guerin, Assistant Commissioner at the GSA PBS Office of Construction Programs, boiled the philosophy behind the Agency's preservation policy down to one word: "Pride."⁵¹

One of the areas of difficulty at the GSA lies in the makeup of its preservation governance structure. The FPO in the Central Office in Washington D.C. directly oversees the CHB as its manager. However, the RHPO's in the various regions are not part of CHB, and are managed by and answerable to their respective Regional Commissioners. Some RHPOs have multiple titles and their work lies on both sides of the divide between preservation and profit. Contact between the FPO and RHPO's is open and productive, but the power to hire, fire, evaluate and reward RHPO's lies within the regions (who understandably have a focus on being a functional and profitable real estate management entity), not under the FPO in Washington.

The point at which this has the most potential for problems is in Region 11 (National Capital Region, or NCR), overseeing the Washington DC metropolitan region, which has the most GSA historic structures per square mile of area. The FPO and CHB have their offices at CSA Central Office at 1800 F Street NW, and the NCR (Region 11) group office is situated in a separate facility at 301 7th Street, SW. Making sure there is regular contact between these groups has been essential in keeping the immensely busy and complex Washington D.C. area running smoothly, and cooperation on major undertakings is a regular occurrence. CHB has a staff of eight helping the regions across the country with preservation issues each day, and this is a great help to all the

⁵¹ William Guerin interview comments, 08Mar2013.

RHPO's, who have no staff reporting directly to them at the Regional level. Activities are much more hectic in the NCR than, for example, in some of the mid-western Regions with many fewer historic buildings, but help from CHB in GSA Central office is spread across the entire country.

The St. Elizabeths project, which began life as a GSA NCR undertaking, is a good example of this relationship. During certain periods, aspects of this project were run by NCR, brought under the control of the GSA Central Office, and utilized staff from CHB and other parts of PBS.

The Department of Homeland Security (DHS)

This agency began as the Office of Homeland Security, brought into being when President George W. Bush first responded to the September 11, 2001 attacks on the United States. About a month later, former Pennsylvania Governor Tom Ridge assumed the title of Assistant to the President for Homeland Security, and on November 25, 2002 the DHS itself was established by the Homeland Security Act of 2002.⁵² Ridge was named as secretary of the DHS on January 24, 2003 and the Agency began official operations, although most of the departments were not transferred into the DHS until March 1. As a timeframe reference, the Iraq War began on March 20, 2003.

The creation of the Department of Homeland Security (DHS) brought together twenty-two separate agencies into one department to make communication and coordination

⁵² DHS history found at: <http://www.dhs.gov/history> Last accessed 29Apr2013

during time of domestic need or crisis more efficient. This consolidation included such diverse entities as the Coast Guard, the Secret Service, the Customs Service, the Immigration and Naturalization Service, the Transportation Security Administration, the Federal Emergency Management Agency, the Federal Protective Service, the Animal and Plant Health Inspection Service, and the Plum Island Animal Disease Center. Not included were the Federal Bureau of Investigation (FBI) and the Central Intelligence Agency (CIA), which was a controversial decision at the time. In fiscal year 2011, the DHS had a budget of \$98.8 billion (nearly four times that of the GSA's \$26 billion budget) and had 240,000 employees (compared to the GSA's 12,000 employees nationwide, less than 5% of the DHS's total).⁵³

The departments that were being combined to create the DHS were operating from dozens of sites across the Washington DC metropolitan area. In order to facilitate communication, coordination and cooperation across the Agency and improve operational efficiency, the most critical components of the agency were identified as having a need to be co-located in one functional campus, preferably within Washington DC. However, there were problems in putting all those longstanding agencies together in a rush.

The forced marriage of so many different cultures and components never allowed for listening and respect to become endemic to the DHS culture. Instead it exacerbated cultural differences and allowed the always-volatile politics and imperfect people of the day to make it worse.⁵⁴

53 DHS data found at: <http://www.dhs.gov/budget-performance> Last accessed 30Apr2013

54 <http://www.defensemedianetwork.com/stories/why-is-dhs-a-crappy-place-to-work-part-2/> Last accessed 12Feb2013.

This problem would have repercussions in the multi-party consultations which took place ahead of the St. Elizabeths project, as the frustrations of DHS representatives occasionally got the better of them in communications between that agency and others concerned with the undertaking.



Illustration 7: St. Elizabeths West Campus Master plan, 2012. The dark shaded buildings are historic, those outlined in white are planned new construction. A full size version of this map is available at: http://assets.stelizabethsdevelopment.com/documents/document_center/4_appendix-C_ERRATUM1_20100421162339_20100421095934.pdf?CFTREEITEMKEY=D831 Last accessed 31Mar2013. Source: GSA EIS documentation.

To understand the push for the new site at St. Elizabeths, we need to consider what the DHS was already using as its main site. Beginning in 2003, the agency moved into the Nebraska Avenue Complex (NAC), a former women's college taken by the

Roosevelt Administration for use by the Navy and its cryptography group during World War II. Due to its connection with significant events in history, this site is currently being investigated for listing on the National Register of Historic Places. Although DHS wanted ownership of the NAC assigned to them, it was instead transferred from the Navy into the care of the GSA, making DHS a tenant. At this time, an expansion is being planned to add six new buildings and a four-level parking structure to the NAC, for a total 1.2 million GSF, however, with funding being uncertain no actual construction has begun to date.⁵⁵ DHS utilizes other office spaces across the Washington Metropolitan area (as GSA tenants) which it would like to consolidate.

One of the problems DHS was facing during the period between 2003 and 2009 was one of public optics. Blame for a failure to be prepared for Hurricane Katrina in 2005 was placed on the Federal Emergency Management Agency (FEMA), now a part of DHS. Shortly afterward, in 2006, DHS was cited for up to \$2 billion of waste and fraud after audits by the Government Accountability Office revealed widespread misuse of government credit cards by its employees.⁵⁶ In 2008, DHS was criticized by Congress for failing to bring its spending under control and not accounting for a number of unusual and frivolous purchases. *The Washington Post* stated “In the five years since it was created, the Department of Homeland Security has overseen roughly \$15 billion worth of failed contracts for projects ranging from airport baggage-

55 See <http://dcmud.blogspot.com/2011/05/ncpc-reviews-draft-master-plan-for.html> Last accessed 01Mar2013.

56 http://www.nytimes.com/2006/07/19/washington/19cards.html?ei=5088&en=5e9000b0261c5602&ex=1310961600&adxnnl=1&partner=rssnyt&emc=rss&adxnnlx=1164294012-DXvgXm9ImuoTtQCqwkFjA&_r=0 Last accessed 01Mar2013.

screening, to trailers for Hurricane Katrina evacuees, according to Congressional data.”⁵⁷ These management issues would not make things any easier as the consultation phase for the new consolidated headquarters campus moved forward and financing was needed.

Why DHS at St. Elizabeths?

The GSA is tasked with the proper upkeep of its properties, whether historic or not. Although it had been handed the St. Es property in December 2004, HHS had not been properly maintaining the property for several years (possibly as far back as the early 1980's) to the same standards as would have been applied had the property been fully utilized. Given the sheer scale of the property, and its status as a National Historic Landmark, this meant that the financial burden and the standard of care required for this undertaking was going to be greater, because it was not 'just any campus.'

As the global financial troubles of the first decade of the century rolled into the 2008 financial crisis, the period became known as “the Great Recession.” Federal funding was denied to St. Es in the 2007 and 2008 budgets, and it became apparent that without some sort of stimulus, St. Es and its historic resources were going to continue to deteriorate. The GSA pointed out throughout the consultation process that the federal government was the only party in that economy that would have the finances and experience to take on the St. Elizabeths campus redevelopment, and if they did not

⁵⁷ <http://www.washingtonpost.com/wpdyn/content/article/2008/09/16/AR2008091603200.html> Last accessed 01Mar2013.

do it, the campus would continue to decline. The only way to do that was to get a significant client, and the one at the top of the priority list was the DHS.⁵⁸

Hence, in conclusion, the Department of Homeland Security, its agencies and departments, were scattered across 70 buildings throughout the National Capital Region. They felt that to effectively operate in the future there was a need to consolidate its leadership at a single secure location, allowing coordination of policy, management, operational functions, incident management and command and control capabilities. The DHS had determined on its own that it required a total of over 6 million GSF of office space, and saw a need for 4.5 million GSF of that space to be on one campus (this number included a new USCG HQ). The DHS approached the GSA to fulfill this need, although exactly when that approach was made is unclear. The Administration deemed the proposal to be a priority, and work got underway with all due speed.

⁵⁸ Second on the list was the FBI. “As of 2012, the J. Edgar Hoover Building is nearing the end of its useful lifespan. It is suffering from deterioration due to deferred maintenance and mediocre design. The FBI, General Services Administration, and General Accountability Office agree that the building is no longer appropriate for the FBI, but the cost of building a new headquarters has led to inaction for several years.”
<http://www.washingtoncitypaper.com/blogs/housingcomplex/2011/11/09/the-fbi-building-is-a-disaster/> Last accessed 04Apr2013.

CHAPTER SIX

St Elizabeths Project: The Early Period, Starting December 2004



Illustration 8: The Center Building at St. Elizabeths Hospital in Washington, D.C. is one of the oldest buildings on the campus, pre-dating the American Civil War.
Source: Thomas Otto

The start of consultation for the proposed project at St. Es will be covered in this chapter, with details on the early proposals for the site. The online public document center, a pioneering use of technology for public involvement, is outlined. This chapter includes details on the consulting parties involved, and on events that impacted the project during early planning for the proposed undertaking.

The Proposal For St. Elizabeths West Campus

In January 2001, the Department of Health and Human Services (HHS) announced that it no longer had a need for the West campus and declared the property “excess to its needs.” Previous to 2001, the site was supposed to have been managed in cooperation with the District of Columbia Mental Health Services (DCMHS) as part of an agreement that eventually would have transferred actual ownership of the St. Elizabeths East campus. In order for this to move forward, the District was responsible for providing a masterplan for redevelopment of the West campus. However, this masterplan never materialized, and therefore the transfer of the site did not take place. The West campus site deterioration continued during this time, with little or no maintenance (and a bit of vandalism) from 1990 to 2004.

This problem with HHS and DCMHS overseeing St. Es' physical assets mirrored a similar situation for the decomposing historic core of the Walter Reed Army Medical Center (WRAMC). That notable case caused the National Trust for Historic Preservation (NTHP) to take the US Army to court in 1996, in an attempt to compel the Army to live up to its Programmatic Agreements commitments by moving to stabilize and preserve the cultural resources on site.⁵⁹ Although the Trust was not completely successful (officially, the judgment went against the NTHP), the court

⁵⁹ NATIONAL TRUST FOR HISTORIC PRESERVATION and Save Our Seminary At Forest Glen, Plaintiffs, v. Major General Ronald R. BLANCK, et al., Defendants. Civil Action No. 94-1091 (PLF). United States District Court, District of Columbia. September 13, 1996. Available in full at http://www.leagle.com/xmlResult.aspx?page=15&xmlDoc=19961846938FSupp908_11692.xml&docbase=CSLWAR2-1986-2006&SizeDisp=7 Last accessed 12Apr2013.

found the Army was in violation of their duties under the NHPA, and the written findings slapped them hard for allowing the decomposition at WRAMC to take place.

At St. Es, the GSA officially took custody of the West Campus of St. Elizabeths from HHS for redevelopment or disposal December 9, 2004.⁶⁰ Like any commercial developer, the Agency would not have taken on this property without having a plan in place on what to do with it, and that plan would have taken time to develop. The GSA could, theoretically, have been working on it since 2001 when HHS declared the property surplus. Unfortunately, none of those records are available, but it would have been instructive to know what was discussed, how long the negotiations with HHS took, and what planning meetings had taken place within the GSA and which internal departments were involved. It would be pivotal from a CRM standpoint to know how much Historic Preservation figured into those discussions, and how the topic of the National Historic Landmark status of the site was discussed at the GHS before and after the transfer from HHS. As it is, the first time St. Es is publicly connected to the GSA was at the time of transfer, and by then it appears that tasks had been assigned and the project planning was already moving full steam ahead.

Upon acquisition of St. Elizabeths West Campus, the GSA undertook a \$14.5 million structural stabilization project at St. Es, and they also increased site security to prevent further loss. This stabilization included several actions: the replacement of several roofs, the boarding up of all campus windows and doors with plywood, and the

⁶⁰ Unless otherwise stated, in this paper all references to “St. Elizabeths” are specifically referencing the West campus of St. Es.

provision of mechanical ventilation for buildings to prevent moisture buildup. It also meant initiating work to document the existing conditions of structures on the property to meet federal preservation standards.



Illustration 9: New US Coast Guard Headquarters at St. Elizabeths, concept view.
Source: USCG

St. Elizabeths and the Public Process

The proposed St. Elizabeths project was in the Congressional district of Representative Eleanor Holmes Norton. The project was a high priority for the administration of President George W. Bush, and for several members of Congress and the Senate. At the same time, because it was a National Historic Landmark (NHL), the project at St. Es able to galvanize the historic preservation community. The initial consultations for the historic preservation concerns of the USCG HQ

project were arranged on a time-line to indicate they would take a very short time (40 days plus about 20 more for outside agency approval), but they ended up running from 2005 through the end of 2008, nearly four years. Because of its NHL designation, at St. Es all designs (including the first new structure on the campus, the sprawling new USCG headquarters) were carried through a public consultation process in accordance with NEPA, as combined with Section 106 and other parts of the National Historic Preservation Act, and involved a long list of consulting parties.

One difference between a property that is listed on the National Register and one that is recognized as a National Historic Landmark is that, in the latter case, the National Park Service (NPS) is automatically and directly involved in the preservation process. Since the NPS is part of the Department of Interior, inter-departmental relations can complicate project time-lines, however the process adds a degree of protection for these culturally significant sites. As plans at St. Es developed they included taking part of the adjacent Shepherd Parkway, which was NPS land. This proposed taking gave the NPS an extraordinary and necessary amount of leverage that it *could* exercise over the planning of the undertaking at St. Elizabeths.

The Online Public Document Center for St. Elizabeths

At St. Elizabeths, the GSA has undertaken (to date) eight years of public comment, negotiation, and consultations, with the requisite generation of paperwork and digital files: These include reports, layout of multiple designs, and the creation of tens of thousands of pages of documentation regarding the site. Making this documentation

publicly available was made possible through the online St. Elizabeths Document Center, found at http://www.stelizabethsdevelopment.com/document_center.cfm.⁶¹

This boon of information is in stark contrast with that available from the GSA for projects years ago (for example, during the the Winder Building or the African Burial Ground Projects). The embrace of this technological method of information sharing by the Agency has been enthusiastic (when funding permits it), and such methods are now being used on a number of federal undertakings. The District of Columbia has also created a similar website for the redevelopment of the St. Es East campus at <http://www.stelizabethseast.com/>⁶²

The data on St. Es includes the correspondence and memos between the parties, the draft and final Environmental Impact Statements, the Programmatic Agreement, a variety of options considered and studies undertaken, archaeological reports, committee and consulting party meeting minutes, the Building Preservation Plans, site concepts and proposals, and more. It is invaluable for understanding the project, truly a landmark in terms of government openness.

This approach has proven invaluable to all parties in the process, not the least of which was the GSA itself. The public relations and procedural boon received under this policy reaped major rewards in the St. Es consultation process, which, of course, was no doubt part of the overall plan when the online data system was created.

61 Last accessed 30Apr2013.

62 Last accessed 02Feb2013.

The Consulting Process

The NHPA, Section 110 (a)(2)(E)(ii) requires:

. . . an agency's procedures for compliance with section 106 to provide a process for the identification and evaluation of historic properties and the development and implementation of agreements, in consultation with SHPOs, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate.

Further, the Secretary of Interior's Consultation General Principles⁶³ state (emphasis added):

The agency needs to inform other agencies, organizations, and the public in a timely manner about its projects and programs, and about the possibility of impacts on historic resources of interest to them. However, the agency cannot force a group to express its views, or participate in the consultation. These groups also bear a responsibility, once they have been made aware that a Federal agency is interested in their views, to provide them in a suitable format and in a timely fashion.

The list of consulting parties that were about to be formally invited to participate in the process at St. Elizabeths was extensive, and can be broken into four categories. They are described below.

Professional Organizations

- The American Society of Landscape Architects (ASLA) is the national professional association representing landscape architects, with more than 17,000 members. Founded in 1899, its charter is to "establish landscape architecture as a recognized profession in North America, develop educational studies in landscape architecture, and provide a voice of authority." Because of the significance of the landscape design at St. Elizabeths, recorded by the

⁶³ http://www.nps.gov/hps/fapa_110.htm Last accessed 31Mar2013.

Historic American Landscape Survey (HALS), this organization was invited to participate in the process.

- The Brookings Institute (BI), founded in 1916, is one of Washington's most respected think tanks. It conducts research primarily in economics, metropolitan policy, governance, foreign policy, and also global economy and development. In 2003, the Brookings Institute proposed a thriving neighborhood with offices, condominiums, houses, assisted living for regeneration of the area.⁶⁴
- The Cultural Landscape Foundation (CLF) focuses on increasing awareness and understanding of the importance and irreplaceable legacy of cultural landscapes, landscape architecture and its practitioners. Founded in 1998, it is not a membership organization but operates as a not-for-profit promotion, education and awareness entity.
- The National Association for Olmsted Parks (NAOP) was founded in 1980 to raise awareness of the legacy of landscape work left by Frederick Law Olmsted Sr. It is composed of design and preservation professionals, historic property and park managers, scholars, municipal officials, citizen activists and representatives of Olmsted organizations.

Federal Government Agencies & Representatives

These are described elsewhere in this paper, but they include: the Advisory Council for Historic Preservation (ACHP); the Department of Homeland Security (DHS); the

⁶⁴ http://www.washingtonpost.com/wp-dyn/content/article/2007/06/16/AR2007061601192_3.html Last accessed 02Apr2013.

National Park Service (NPS); the U.S. Coast Guard (USCG); the U.S. Commission of Fine Arts (CFA); the National Capital Planning Commission (NCPC); the Federal Highway Administration (FHA); and the office of Eleanor Holmes Norton (Congressional Representative for the District of Columbia).

Local Government Agencies

- The Advisory Neighborhood Commissions 8A, 8B, 8C, 8D, and 8E (the ANC's) are bodies of the local government within the Southeast portion of the District of Columbia (near Anacostia). These Commissions are recognized by local legislation for being representative voices, regard the policies and programs that impact their neighborhoods, including highways, recreation, zoning, economic development, services, and liquor licensing. They report to the DC Council, and have input when creating the District budget. Each Neighborhood Commission is empowered to have a small staff and to take donations for its local operations.
- The District of Columbia Department of Transportation (DDOT) is in charge of the publicly owned transportation infrastructure in the District. It has authority over the planning, design, construction, and maintenance of alleys, bridges, sidewalks, streets, street lights, and traffic signals.
- The District of Columbia Office of Planning (DCOP) is concerned with planning, development and neighborhood revitalization. It is responsible for the city's comprehensive plan, project reports, news, and historic preservation (see below).

- The District of Columbia State Historic Preservation Office (DCSHPO) is within the DCOP and is responsible for all aspects of work assigned to a SHPO as part of the NHPA, including Section 106.
- St. Elizabeths Hospital in this context refers to the operational facility on the East campus run by the District of Columbia Department of Mental Health (DMH) as public psychiatric facility for individuals who need inpatient care to support their recovery. The DMH serves more than 22,000 adults, children and youth and their families each year, but less than a thousand of those are in-patients, those in residence at St. Elizabeths.
- Council member Marion Barry was a four-term Mayor of Washington DC, and currently serves on the Council of the District of Columbia for all of Ward 8.

National advocacy groups:

- The National Trust for Historic Preservation (NTHP) is a member-supported preservation advocacy organization with a reported 250,000 members. It was founded in 1949 by Congressional charter to support preservation of historic buildings and neighborhoods through a range of programs and activities. Additional details on the NTHP can be found throughout this thesis.
- The National Historic Landmarks Stewards Association (NLSA) is an organization formed in 1998, comprised of persons who own or take care of National Historic Landmarks all across the nation.

Local advocacy groups:

- The Anacostia Historical Society is a non-profit volunteer civic group concerned with local history, founded in the 1970s.
- The Committee of 100 on the Federal City (C100FC) was created in 1923 with the intention to sustain and to safeguard the precepts of the L'Enfant Plan, the McMillan Commission, and significant legislation such as the 1910 Height of Buildings Act. It works as an advocate to protect Washington DC from unwarranted development and preserve the distinctive character of the city as a community.
- The DC Preservation League (DCPL) helps to protect and interpret the history of the District of Columbia. It is a non-profit, member-supported organization which also seeks to enhance the historic and built environment of Washington through advocacy and education.
- The Friends of St. Elizabeths is a volunteer group that works to assist in the operation of and fund-raising for the St. Elizabeths Hospital mental health facility on the East campus.
- The Medical & Professional Society of St. Elizabeths Hospital is a staff-membership organization concerned with the currently operating mental health facility on the East campus and its legacy from the time when it was previously united with the West campus.
- The National Coalition to Save Our Mall (NCSOM) is a national, not-for-profit organization working to preserve the National Mall as a monument to democracy. Its mission is “to defend our national gathering place and symbol

of Constitutional principles against threats posed by recent and ongoing proposals (for new memorials, security barriers, service buildings and roads) that would encroach on the Mall's historical and cultural integrity, its open spaces and sweeping vistas, and its significance in American public life.”⁶⁵

- The National Museum of Civil War Medicine (NMCWM) is concerned with preservation and research into the “innovation and humanitarianism” of that profession during the conflict of 1861-65. It is involved in both public education and investigation into the impact of the Civil War on society today.

Given the complexity of the project at St. Elizabeths, the number of consulting party meetings and site visits that took place, the huge volume of paperwork that was being passed at every stage of the consultation, and a bit of public unfamiliarity with the NEPA process, the time commitment involved became an unfortunate limiting factor that impacted ability of some representatives to participate. One example of this can be found in the Consulting Party Working Group Meeting notes from 23 June, 2008:

Rebecca Miller from the DCPL pointed out that many [consulting parties] worked for small, board-driven nonprofits, and would find it difficult to turn around comments within [the short time frame desired by the GSA].⁶⁶

The creation of the online document center, as a resource, lays the public communications of the project out for our use, and we see the expressions of the consulting party in stark relief. Each communication from the consulting parties described above appears in easily downloadable format. As useful as it is, however,

⁶⁵ <http://www.savethemall.org/> Last accessed 02Apr2013.

⁶⁶ Meeting Notes, St. Elizabeths West Campus, 23Jun2013, available on the ST. Es document center at http://assets.stelizabethsdevelopment.com/documents/document_center/106CP_MN_0806231_20100415120800.pdf?CFRTREEITEMKEY=D431 Last accessed 16Apr2013.

we should not mistake it for the complete picture. It is, at best, a self-selected data set, created by the developer to serve a need, the GSA's quest for the paperwork to show compliance with NEPA and NHPA requirements needed to move the project forward. A further investigation of GSA and DHS internal files through a Freedom of Information request would be instructional, and add to the knowledge of the planning and execution of the consultation and planning phases of this project.

CHAPTER SEVEN

The First Critical Twelve Months of St. Es Planning: 2005



Illustration 10: St. Elizabeths Campus, view from "The Point" toward the Mall.
Source: Author photo.

The first twelve months of this project set the stage for the following three years of consultations. Missteps at this stage, as with early-term problems on any project with an engineered time-line, were to have a domino-like effect on the project's critical path landmarks. Given the amount of time that must have been spent preparing for the project, well before December 2004, the only conclusion that a reasonable researcher can come to, given the problems encountered, is that historic preservation planning was given short shrift during that critical early period. As with most problems of this type, this error took more time to correct than it took to create.

Possession and Planning

As previously mentioned, GSA took possession of St. Elizabeths West campus on December 8, 2004. In January 2005 the GSA met with the Advisory Council on Historic Preservation (ACHP) and the National Park Service (NPS) to brief them on their acquisition of St. Es. In March of 2005, a master planning effort was initiated internally by the GSA to redevelop St. Es and to create a new building to host the headquarters of the United States Coast Guard (USCG).

The public document file indicates the creation of a GSA “Certification of Need” (CoN) report in support of the construction of a new Coast Guard headquarters, dated May 13, 2005. This report states that all possible options for sites to place the USCG HQ had been explored, and the only possible location that met all the parameters was at St. Es. The CoN report was eventually followed, in time, by orders instructing the Coast Guard to cooperate with the plans to move.⁶⁷ In addition, the differential in renting a private building versus a Federally-owned one was projected to save over eighty million of dollars over thirty years. Early encouragement for the move would have come from the agency to which the USCG reported to, namely the Department of Homeland Security.

⁶⁷ Even though USCG was happy where they were, the Agency was growing, needed more office space, and now needed access to a helicopter landing pad, something it did not have in its current location.

On May 20, 2005 the DC Historic Preservation review Board (DCHPRB) released its agenda for its May 26 meeting, and on that schedule (among other items of regular business) was a hearing on listing St. Elizabeths as a Historic District.⁶⁸

On June 7, 2005 the GSA issued a public Notice of Intent (NOI) for the submittal of redevelopment proposals for the St. Elizabeths campus, including a new Coast Guard Headquarters facility. The announcement unfortunately failed to mention the site's NHL status, or a need for experience with Section 106 review and compliance, or a need for experience in working with the ACHP, NCPC, DCSHPO, consulting parties and neighborhood organizations. There was no mention of Section 106 archaeological requirements, and Historic Preservation was not listed as one of the Architect / Engineering services required. Only the NEPA was mentioned; the NHPA or Executive Orders that affected the project were not. This was not a good start for the proposed undertaking.

DHS Appears on the Scene

By the end of June 2005 the DHS is recorded as having informed GSA of its need to consolidate its office locations around the National Capital Region (NCR) to a single campus to promote operational efficiency. Its stated requirement was for 4.5m GSF specifically including the USCG HQ.

To understand the sizes being discussed:

⁶⁸ This designation regarded the whole of the historic campus, both on the East (DC) and West (GSA) sides of Martin Luther King Jr. Avenue.

- the existing space within historic and other buildings on the St. Es West campus currently totals 600,000 GSF.
- The proposed Coast Guard building was to be 1.1m GSF.
- The DHS wanted 4.5m GSF total of office space including the USCG HQ.
- This is a total of 3.9m GSF greater than was historically on site, or an increase of greater than 500% in site density.
- The Pentagon, in comparison, has 3.7m GSF of offices (with 6.5m GSF total including all services).

However, it is relatively obvious that DHS was always part of the St. Es plan, just by seeing that the USCG HQ was always part of the total they were requesting. By the time the first meeting with the consulting parties took place September 7, 2005 (ten months after acquisition), designs for the campus had been created showing numerous larger structures added to the landscape, to match the amounts required by the DHS. However, the identity of DHS as tenant for the site was not revealed outside the GSA until January 2006.

At that first consulting party meeting, the DCSHPO stated that the master plan needed to be taken to the DC Historic Preservation Review Board. The SHPO has discretion to seek guidance from HPRB, and the hearing that would then occur would be an opportunity for public comment. The GSA's response to this was not one of support for the process, but to express surprise at the request for HPRB review, and a statement of concern for the effect such an action could have on its schedule.⁶⁹

⁶⁹ Consulting Party Meeting minutes 07Sep2005. These are available at: http://assets.stelizabethsdevelopment.com/documents/document_center/September_7_2005_Minute_s1_20100414070021.pdf?CFREEITEMKEY=D305 Last accessed 12Apr2013.

By the time the consulting parties met October 11, 2005, there were still problems with sharing information due to security issues. The designs in question had not received input from the DCSHPO, CFA, NPS, DCPL, Cof100, NCPC or NTHP. There was concern over several aspects of the proposals, especially scale. The DCPL noted that it appeared that “buildings were placed where they would do the least harm, instead of where they could make the greatest difference.”⁷⁰ The Cof100 stated that the consultation process had to be more than just a 'consideration' of the the local community, they had to be included in the public process. That organization also was the first to make a particular point in the minutes that the buildings being proposed were “huge in scale.”

In this early meeting the NPS concentrated its comments on the landscape and how St. Es' in particular was a feature that the capital had been working around for three-quarters of a century, and from a planning perspective it was a historic feature that absolutely needed to be maintained. The SHPO stated “The master plan team is looking at 4.5M sf of massive development. We just don't see it. Is this all that's on the table or is there more being considered?”⁷¹ The CFA in particular stated “Once you develop this, it is gone forever. Perhaps this is not a marriage that should be consummated.”⁷² The GSA was keen to move right on to discussing design guidelines and a programmatic agreement, but the DCSHPO was much more

70 Consulting Party Meeting 11Oct2005.

http://assets.stelizabethsdevelopment.com/documents/document_center/October_11_2005_Minutes1_20100414070328.pdf?CFTREEITEMKEY=D311 Last accessed 12Apr2013.

71 Ibid.

72 Ibid.

interested in exploring efforts for minimization and getting into site specifics and they would not be rushed. At this point, the words no developer enjoys hearing in relation to a historic site, “adverse effect,” began to be used.⁷³

On December 12, 2005 *The Washington Business Journal* (WBJ) published an article on the St. Elizabeths project (Appendix C). This article laid out the well-reasoned theory that, in addition to the USCG HQ, the GSA planned to create a high-security DHS headquarters complex within the campus at St. Es.

There had been no November consulting party meeting, but the day after the WBJ article was published, there was one which occurred on December 13, 2005. This session saw a reduced number of participants, and other than GSA and its subcontractors, it included only CFA, NCPC, ACHP, DCSHPO, and the DCOP. The NPS, NTHP, CofI00, DCHPL, USCG and DHS, all at the previous meeting, were not invited to this session. GSA stated its goal was to “maximize development opportunity on the site” with a high security campus for the USCG and an “undisclosed tenant.” Jonathan McIntyre of the NCPC questioned whether the historic context of the site was actually factored into the planning process.⁷⁴ NCPC went on to state that the plan did not preserve the historic character or environmental integrity of the site, and it would find it quite difficult to make a substantive response to the minimal plans being provided by GSA.⁷⁵ The NTHP, on the other hand, was not in

73 Ibid.

74 Consulting party meeting 13Dec2005.

http://assets.stelizabethsdevelopment.com/documents/document_center/December_13_2005_Minutes1_20100414071145.pdf?CFREEITEMKEY=D322 Last access 12Apr2013.

75 Ibid.

attendance, was never informed that this meeting was taking place, and when they found out on their own (a week after the fact) they were not at all pleased. The President of the Trust was shortly on the schedule for a meeting with the GSA Administrator in January 2006.

The Problems with the St. Es Process

There were certainly differences of opinion between the GSA, its client DHS, those who were hired as consultants, and the consulting parties in regards to compliance with the NEPA process. GSA staff in the PBS were concerned with assuring compliance with all the laws and executive orders, while upholding the principles and intent of historic preservation. They were tasked with making sure that St. Es avoided the pitfalls learned at projects such as the Winder complex and the African Burial Ground. However, this put preservation staff in a difficult position with other departments within GSA as they carried out their task to maintain the integrity of the process and keep the Agency out of court for over-reaching or moving too rapidly. They were acting as negotiator, mediator, and compliance process assurance 'agents' for the GSA.

Inside the GSA there were also problems. In 2006 it appears that the project was being approached by two different groups (Architects and Preservationists) from two different Regions (NCR and Central Office) with divergent views on Section 106, with one group concentrating on the needs of the clients (USCG and DHS), and another on the needs of the historic campus. This was a further outgrowth of some of the year

one missteps. A realignment of the thinking about the entire campus as the area of potential effect (APE) was essential. The new USCG HQ project being designed for the site could not be separated from the NEPA and Section 106 consultation, as much as the 'new construction' focused parts of the project team wanted it otherwise. If the process continued on that track, the ACHP would be getting more involved than the GSA had envisioned them being at first, because the NTHP would have the opportunity to bring its legal weight to bear in court.

At the same time, a confrontation outside the consulting process could do more than throw the project time-line into chaos. Going to court at this point in the project, before consultation had been given the chance to take corrective, collaborative action on an outstanding issue, could also damage the good reputation the GSA's CHB had been cultivating for some time. It could impact other projects, and damage relationships with other agencies. By ending up back in court, accused of bypassing consultation regulations, the preservationists at PBS knew that the ghost of the Winder Complex would come back to bite them.

At the same time, PBS had to manage a client (DHS) who viewed the process in an adversarial manner. Preservationists needed to interpret and translate communications from the consulting parties, going from preservation legalese and jargon into language that PBS and DHS could digest, and back again. At various times the staff acted as collaborators, as mediators, or as negotiators.

The NEPA process was chosen for St. Es as it was the GSA standard procedure for a complex project. The GSA has a written policy called "ADM 1095.1F Environmental Considerations in Decision Making"

which in part reads (emphasis added):

In all its decision making, GSA will attend carefully to the National Environmental Policy set forth in Section 101 of NEPA. To the maximum extent practicable, GSA will ensure that its actions protect and where possible improve the quality of the human environment, including the built and sociocultural environments of the nation's urban areas. GSA decision makers will use the NEPA review process prescribed in the CEQ regulations as a practical planning tool, and integrate both the NEPA review process and the Section 101 National Environmental Policy into decision making in an efficient, cost-effective manner. The NEPA review process will be initiated at the earliest possible stage in planning any GSA action, and will be carried forward in coordination with other planning activities.

Decision makers will ensure that they have reviewed and fully understand the environmental impacts of each decision, before making any such decision. All managers responsible for decision making on GSA actions will be accountable for being knowledgeable about, and attendant to, the requirements of NEPA and the National Environmental Policy that these requirements are designed to advance.

The agency was required to go through NEPA in any case, and consolidating NHPA Section 106 fulfillment within that framework was both implicitly legal and made good sense. Hence, NEPA provided the principal set of regulations to follow, and NHPA Section 106 became a subset within those reporting requirements. This also increased the complexity of project on an arguably complex site, with a complex multi-purpose client (DHS), and considering the huge, complex scope of the proposed undertaking (reportedly the largest federal government project in DC since the Pentagon). The combination of NEPA with the section 106 process also led to a bit of ambiguity about who would sign on for the negotiated outcome. From the viewpoint of some, rather than saving time by preventing duplication, the NEPA process led to misunderstandings, confusion, and in some cases mistrust. The DCSHPO's office, in

trying to discern the direction of the project, wrote in December 2006 (emphasis added):⁷⁶

[T]he process of the former [NEPA] somehow trumps the intent of the latter [NHPA Section 106]... It has been our experience that when NEPA and 106 reviews are combined, the aims of the latter often suffer for it.... In such a case as this, NEPA allows for... a degree of public participation. Section 106 requires it.

GSA's reliance to date on the National Environmental Policy Act as the primary tool for considering effects to the National Historic Landmark throughout this critical planning phase may account for some of the frustration expressed by consulting parties over the difficulty of reaching consensus on how to minimize these effects. The analysis of alternatives under NEPA has not revealed sufficient detail about the specific consequences each alternative will have for historic properties, yet GSA's NEPA schedule has been the driving force in how GSA has considered the impacts of this development on historic properties. The section 106 implementing regulations provide that the goal of consultation is to seek ways to avoid, minimize or mitigate any adverse effects on the historic properties. We appreciate GSA's concern that it not compromise the NEPA process by settling on alternatives at this stage, however, it has been difficult for the consulting parties to provide GSA with specific concerns when the scope of the undertaking remains undetermined and evaluation of historic resources values is still incomplete. Consultation to resolving adverse effects to historic properties under section 106 cannot commence until the nature and severity of adverse effects resulting from various alternatives is more fully defined.

Moving into a NEPA review, without due consideration in advance of the adverse effects to the property unnecessarily pitted one law against another. Although the NEPA process is intended to place everything on an even playing field in a regulated and pre-planned format, when merged with the NHPA processes they do not automatically work seamlessly with each other. Many areas where NEPA and NHPA cross are open to interpretation, and end up being gauged against precedents. The

⁷⁶ Timothy J. Dennée, Architectural Historian, DCSHPO Office communication to William B. Bush, GSA ARA. 20DEC2006.

PBS appears to have a good deal of practical experience in creating those precedents, and with uniting these regulations to assure compliance with their stated purpose. Because of this, the CHB has, in a way, taken on the role of writing the NEPA/NHPA playbook one project at a time. Co-mingling the regulations as you go, however, is not a painless process.

Areas of Concern for the Consulting parties

The NEPA process is generally broken down into parts, the first of which is to collect comments from interested parties. These are then addressed in turn, in a timely fashion. For each project, the GSA internally creates spreadsheets which summarize the comments and concerns that have been expressed. They continue this spreadsheet system throughout the consultations as new concerns are added or old ones dealt with. GSA's response to each item may then be tied to supporting data and links can be provided for further information. This project was no exception.

The reoccurring themes found on these spreadsheets highlight: (1) alternative site study; (2) project scale and the amount of proposed new construction on the site; (3) the protection, reuse and treatment of existing cultural resources; (4) the design and placement of the security perimeter and a desire for public access to the site; (5) the site master planning taking place concurrently with NEPA and NHPA compliance work. We will discuss these below.

(1) Alternative Site Study

The validity of the GSA's study of alternative sites was questioned. The GSA had looked at a total of 12 local sites in addition to St Elizabeths to find an appropriate location for a secure campus for the DHS that could provide up to 4.5m gross square feet of space. The NTHP wanted reconsideration of the Armed Forces Retirement Home (AFRH) in Northern Washington DC, in particular, for the undertaking. Along with the DCSHPO, the NTHP requested a more in-depth analysis of all of the alternative sites, covering environmental, transportation, historic considerations, security issues, access and other concerns for each possible alternative. Land-swap deals with other entities (such as the government of the District of Columbia, the military, and various other agencies) were suggested as alternatives to construction at St. Es.⁷⁷

The most often mentioned alternative site was the Armed Forces Retirement Home (AFRH), located in the Park View neighborhood of Washington DC.⁷⁸ The problem in this case was that the GSA was restricted from entering into any arrangement for ground-lease payments because other non-lease sites were available. The addition of the DHS to the AFRH campus by outright land acquisition would have impacted

⁷⁷ Data for this section consolidated from numerous sources. A central source can be found in the 11Apr2006 GSA white paper: *"Preliminary Analysis, Department of Homeland Security Elements, Developable Federal Land in the National Capital Region "* which is available at: http://assets.stelizabethsdevelopment.com/documents/document_center/Location_Alternatives_Analysis1_20100422174153.pdf?CFTREEITEMKEY=D863 Last accessed 13Apr2013.

⁷⁸ The AFRH was first set up on land purchased with booty obtained by Gen. Winfield Scott during the Mexican War in 1847, and was designated for the housing of elderly and disabled veterans. The site is maintained by the payroll deductions of active-duty members of the military. It was listed as a Historic District in the NRHP on 05Dec2007, reference number 07001237.

AFRH's ability to remain a viable and self-sustaining entity (as it is dependent in part on income from its ground leases to funds its operations).⁷⁹

A second option was the Army's Walter Reed Medical Center (WRAMC) in Northern DC, which had just been placed on the Base Realignment And Closure (BRAC) list in 2005, but was projected to take seven more years to close. This seven years would have taken us to 2012, but the original St. Es decision was planned to have USCG and DHS in occupancy long-complete by that time, so it was discounted. The medical center site is now being considered for a Wegmans, Best Buy, and other retailers.

A third option concerned the Southeast Federal Center site (SEFC). Unfortunately, this location able to offer less than half the space needed for the DHS's use. On June 2, 2005, GSA announced it had “turned over the keys” to the SEFC site a commercial developer for a 44 acre phased development.

The fourth site under consideration was a parcel known as “Reservation 13” on the west bank of the Anacostia river. However in 2005 it was already being considered by Congress for transfer to the District of Columbia. This transfer did take place, but in 2013 it still sits unused. The site was offered to the Washington Redskins football

⁷⁹ In time, a suggestion was made that a land-swap between GSA and AFRH could have freed up space that could have provided much needed income to AFRH by providing space elsewhere it could generate revenue from. However, by the time that proposal was made, construction was already underway for the new USCG Headquarters building. It seems unfathomable that the astute real estate professionals at the GSA didn't come up with this suggestion. This fact adds weight to the idea that the St. Es site was selected for USCG and DHS long before the project was revealed, before the site was transferred from HHS to GSA. Because those details are not publicly available, we will probably never know.

team as a location for their training camp, in contravention of the site master plan.

The community currently opposes any non-public use of this site.

The fifth option, the site of Robert F. Kennedy Stadium, is on land owed by the federal government but on lease to the District of Columbia. It was considered and rejected as much too small.

The sixth possible choice, The Germantown Campus of the Department of Energy, was less than half the size needed by the DHS, and thus was never seriously a contender.

The seventh option was the Suitland Federal Center in Maryland. This site was unacceptable because it was outside the District, eight miles from downtown Washington, and had only one-third of the space needed by DHS.

The eighth possibility was the Nebraska Avenue Complex (NAC), originally a women's college but taken during WWII by the government for use by the Department of the Navy for code-breaking activities. The NAC's historic campus was listed on the National Register and situated within a residential-area, but its buildings had not been well maintained over the years and was not up to modern office standards.

With its red-bricked buildings, white chapel, and well-manicured grounds, [on the outside] it has all of the visual charm of a small college campus. Truth be told, it was accurately described by Paul Schneider, DHS deputy secretary,

in a 2008 congressional hearing as a “dump.”⁸⁰

Although already being utilized by DHS (leased from the GSA), the NAC was situated on a mere 38 acres, and the most ambitious proposals made in 2011 suggest only 1.3m GSF of office space for the site, far from the 4.5m GSF stated as the DHS' total space need.

A ninth option that was investigated was a federal storage site in Franconia, Virginia, was considered but the space available was less than 5% of that needed.

Tenth on the list of possibilities was the White Oak Laboratory site, in nearby Maryland. This former naval weapons research facility had been taken over by the Food and Drug Administration (FDA), but not enough of the site's seven hundred and twelve acres was open for redevelopment due to ongoing environmental remediation. This remediation work was projected to extend 22 years with continuous monitoring for contamination, and effectively put the site out of consideration.

Choice number eleven was to locate at the Beltsville Agricultural Research Center (BARC), currently being utilized by the FDA. Located in Maryland and ten miles north of downtown Washington, it possessed over 6,400 acres of space. However, taking it from the FDA would have required a transfer or an Act of Congress, and it was also outside the District of Columbia. In addition, it was 8 times farther from the Capitol than the Pentagon, and in times of emergency, that was probably was too far.

⁸⁰ <http://www.defensemedianetwork.com/stories/why-is-dhs-a-crappy-place-to-work-part-5/> Last accessed 12Feb2013.

Finally, the twelfth option that was investigated was the Cotton Annex, a tiny site in downtown DC. However, its mere 440,000 GSF space and lack of a viable security perimeter made it totally unsuitable.

A quick look at these shows that, within the District of Columbia, there were no sites other than St. Elizabeths that met all the relevant criteria within the allotted project deadlines. However, hindsight being 20-20, it can be seen that WRAMC could have been an ideal site had there been a broadened project time-line. On August 25, 2005 the BRAC proceedings called for consolidation of military hospital operations in nearby Bethesda, Maryland, and WRAMC closed officially on August 27, 2011. St. Es was well underway by this time, and so WRAMC moved in the seemingly irretrievable direction of commercial redevelopment.⁸¹

Within this discussion of site selection there is an intricate web of regulations, legislation and directives governing the process and the decisions. One Executive Order required that preference be given to placing federal agencies on land that was already federally-owned. Another was the statutory requirement that certain Cabinet-level federal offices, such as Departmental headquarters, be located within the District of Columbia (per 4 USC §§ 71-72, to wit: “All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.”). Another requirement holds that federal

⁸¹ For further information on the development of WRAMC property, see <http://www.wtop.com/109/2840937/Wegmans-large-corporations-could-fill-vacant-DC-sites> Last accessed 02Apr2013.

agency headquarters must have 60% of its staff located at a work site within the District of Columbia. Still another, The Federal and District of Columbia Government Real Property Act of 2006, restricts the federal government from taking additional land in the District (as it would reduce property tax revenue to the DC government). All of these impacted the choice of location for the new DHS Headquarters.

(2) Project scale and new construction

There was an expression that the high density of development being proposed would make it difficult to reuse many of the existing historic resources on site. There was also a concern that the scale and massing of any new buildings could undermine the historic context of the campus as a whole. This was largely because of the size of the development proposed for the West campus, with a total of 4.5m gross square feet total for office and parking space. This level of development was seen by all of the consulting preservation parties as inappropriate, given its significance and the potential impacts. At an April 25th 2007 meeting, the consulting parties suggested that less than half of that amount would be the maximum acceptable or appropriate, with the NTHP requesting that alternatives between 1.5 and 3m gross square feet needed to be more carefully evaluated, even if it meant the DHS being sited at multiple locations.

The discussion of development density was about a desire not to overwhelm the site with new construction or high levels of traffic on (or off) the site. The GSA acknowledged that the consulting parties were correct in assuming that the DHS's needs would be greater than the minimum development options being proposed by the

consulting parties (1.5m GSF), and in fact the client's needs actually exceed the 4.5m gross square feet being considered for St. Elizabeths. The draft and final Environmental Impact Statements for St. Es, however, were prepared to evaluate the impacts of development alternatives with the full possible range between 1.5 to 4.5m gross square feet. It was important to remember that, as the client, DHS wanted to be housed on a secure campus environment, and the GSA's assigned task was to help them achieve that goal. The GSA had needs for substantial new federal office spaces across DC, and the possibility of using St. Elizabeths to make that DHS vacated space available for other use, may have been part of the plan to fulfill those needs. Although the finalized EIS actually covered the information desired by the consulting parties, the NTHP put forth that the findings of the study were flawed, publicly referring to the St. Elizabeths project as “death by shoehorn.”⁸²

(3) Protection, Reuse and Treatment of Existing Cultural Resources

The GSA is required, not only by the NHPA and the Secretary of the Interior's recommendations, but also by several Executive Orders to look first at reuse, and if possible, adaptation and/or incorporation of historic structures into its plans for office space. By utilizing minimization by design, the GSA was addressing the issue of adaptive reuse in ways that would help preserve this property into the future.

The NTHP placed St. Elizabeths on its endangered sites list in 2002 because of the site's state of disrepair. By the time that St. Es was turned over to the GSA in

⁸² *A Disaster for St. Elizabeths*. Moe, Richard, President HTHP. Editorial. *The Washington Post*. 08Jan2009.

December 2004, the site had been deteriorating for well over a decade. The DC Historic Preservation Review Board listed both the West and East campuses of St. Es as a historic district in May 2005, affording them the most powerful means of protection.⁸³ There was a great deal of interest in the preservation community at what was going on at St. Elizabeths. GSA's work usually set precedents, and because the site was the largest undeveloped tract of land in DC, and due to its NHL status, this case was breaking new ground.

The GSA began its stewardship by spending \$14.5m stabilizing the physical assets on the site, including the complete structural replacement of collapsed roofs on two buildings and the boarding up of windows and doorways on the campus. In time, a thorough survey of the historic building and landscape elements was undertaken to determine what structures would be the most valuable and appropriate for adaptive reuse, and to allow for the design of new buildings to work along with the existing campus resources and any minimize impacts by dealing with them during the design process.

(4) Security Perimeter and Public Access

Public access and preservation of cultural resources on the St. Elizabeths campus, such as the Point and Civil War Cemetery, were highly valued by local stakeholders and neighbors, and this project was seen as a threat. There was a desire to maintain access to the site as it was said to have existed while the hospital was in operation. “The

⁸³ Local protection in Washington is bound up with State protection because of the size of the District, and the fact that the DC government and Washington City government are one in the same, unlike, for example, the relationship between Ithaca NY, Tompkins County, NY, the NYS SHPO, and the government of the State of New York in Albany, NY.

Point,” for example, is essentially a bluff that overlooks downtown Washington DC, and had evidently been used by the local community for picnicking, sightseeing, and Fourth of July fireworks viewing for years. The new development, as planned for DHS, was to create a secure campus with very limited access, cutting off public visitation to a National Historic Landmark.

As far as public access goes, security for the client (the DHS) was an obvious but essentially non-negotiable constraint. The site layout was going on as the NEPA process was proceeding, and while the master plan was being worked out, so the GSA was continually revisiting development decisions in light of the needs of the DHS, the desires of the consulting parties, and input from the public (and politicians). The GSA investigated allowances for public access to the St. Es NHL, but the best this might be, after project completion, would be to allow visits for pre-scheduled special events or escorted group tours. It was an oft-repeated myth that open access to the public or the neighborhood had ever been the case at St. Elizabeths, due to its status as a mental hospital. In fact, all the proposed plans kept access at its historic level, which was essentially no access.

Additional security concerns also included keeping the vista at “the point” inaccessible to anyone without the proper clearance, as it was line of sight to both Reagan National Airport and Bolling AFB (where Air Force One and the Marine One and Two helicopters are stationed). It also had a clear view of the central capital region from across the Anacostia River, and there were concerns that the site, if open to the public, could be used as a place from which to plan, coordinate or launch an attack on the

Capital. A change to this access status, although highly desirable for many reasons (such as exposing the public to an exceptional historic site) was not going to be achievable given the operational parameters of the DHS and the security concerns of the US Government.

(5) Site Master Planning Concurrent With NEPA and NHPA

The consulting preservation parties had significant reservations about the site master planning taking place concurrently with the design of the new Coast Guard building for the campus. This was a question of appropriate planning policy, as project planning normally will take place first so as to inform the design process. Having this take place simultaneously was not seen as a violation of the intent of section 106 or 110, but it was an area of great concern.

The consulting parties saw the planning process as unnecessarily aggressive, and felt it risked the integrity of the NHL campus. They pointed out that both NEPA and Section 106 require treating the entire site as an NHL, and that even if the USCG has been proposed for a totally vacant part of the campus, it would still be considered an adverse effect within their Area of Potential Effect (APE). The whole site, including viewsheds, was part of the programmatic concerns they had, and they felt they were not being heard. There had been no chance for the public to comment on the USCG site selection until after summer of 2006, over a year after the announcement of the choice.

According to meeting minutes, the CFA and NCPC in particular were concerned over planning issues they were being confronted with in presentations that had already seemingly been decided by the GSA, and these parties felt that they needed to be providing input during design, not afterward. This meant that input on historic preservation should have been sought as soon as GSA began to think about the site, before December 2004, and regular consulting party meetings should have started immediately upon acquisition, not eighteen months afterward, long after planning had progressed to an advanced stage.

Part of this seems to parallel a differential of planning priorities within the GSA. There were apparently intensive meetings between the architects, engineers and planners taking place on the USCG part of the project in 2004, but that work does not seem to have been generating a lot of historic preservation consultant paperwork regarding Section 106 even through late 2005 (the USCG site would necessarily have a number of APE issues that would need to be documented and studied, even though it was to be “new construction”). On the rest of the St. Es site, surveys of the historic resources generating Existing Conditions Reports, Historic Landscape Reports, Historic Structures Reports, Building Preservation Plans, and the like were being created (and are now posted on the public information site), but not a lot was appearing on the USCG project side of the proposed undertaking. Reports indicate that this trend was sounding alarms at the other consulting parties offices, too. The approach got the whole process off on the wrong foot, and it was something the GSA struggled to recover from in the months to come.

Scheduling issues also arose when it came to the completion of the St. Elizabeths Master Plan. The process was going to overlap (by about a month) the schedule to begin actual nuts-and-bolts design of the Coast Guard Building. On the surface this was likely to be a difficult issue from a PR standpoint, and a number of the consulting parties were quite vocal about it. However, the overlap point was figured out months in advance, and was actually going to occur over the December 2008-January 2009 holiday period. The consulting parties were made aware of this aberration by the distribution of the project schedule in advance.

This timing difficulty came from a conflict between the NEPA time-line process for the determination of the effects and the plans to mitigate GSA office space leasing issues, although the NHPA Section 106 process that was running concurrently with it did provide additional delays within the process. When the new USCG project was first proposed, the idea was to complete the building before the old lease ran out on their current headquarters (making signing of a lease for another five years unnecessary). In the end, the project was further delayed by planning issues and Congressional budget cuts, and this overlap became a minor factor in the grand scheme of things. Changes could (and would) be made after the 'final' Coast Guard design was presented. As the overlap only meant an extra month for the Master Plan, in time the NCPC did indicate a willingness to work with the GSA to help them on their tight development schedule. It was implicitly understood that the design for the Coast Guard would be subject to the final master plan and design guidelines that were being created, and close coordination between the parties concerned was expected.

An underlying consideration during the consultations, planning and negotiations was the physical status of the St. Elizabeths site. The *Washington Business Journal* had referred to the site in 2005 as “a blighted campus,”⁸⁴ and although several consulting parties espoused a desire to see the DHS facility sited somewhere else, the cultural resources on the St. Es site were essentially decomposing. The \$14.5m initially spent by the GSA to stabilize the structures on the site barely scratched the surface of what needed to be done, which is not hard to understand considering it has over 60 buildings, many of which are well over 100 years old. Without funding, parts of the site were dangerously close to becoming cases of demolition by neglect. Urgency was a consideration in this regard.

The St. Elizabeths Project and Politics

There was, predictably, a significant amount of political pressure on the St. Es project. As was seen at the Winder Complex and the African Burial Ground, when politicians are confronted with the ire of the public, the project scope can change in an unanticipated fashion. Regulations might be altered or exempted by the stroke of a pen. One major player was Eleanor Holmes Norton, the Member of the U.S. House of Representatives from the District of Columbia's 'At-large' district, who has held that office since January 1991. As a Delegate to Congress she is entitled to sit in the House of Representatives and vote in committee, but is not allowed to take part in legislative floor votes. She was, at the time of the St. Es project, the Chair of The Sub-committee on Economic Development, Public Buildings and Emergency

⁸⁴ Mazzucca, Tim. *Southeast's St. E's to land new HQ's, \$900M budget*. *Washington Business Journal*, 12Dec2005. <http://washington.bizjournals.com/washington/stories/2005/12/12/story2.html>
Last Accessed 04Jan2013.

Management, a position that placed her in a position to influence the decision on where the new headquarters of the DHS was going to be situated. Norton was not going to let a cabinet level department move outside the District boundaries, and she was determined that the new facility was going to be situated east of the Anacostia river, in an area underdeveloped and underserved by the Federal government.⁸⁵

In the earliest stages of planning, the GSA staff felt that all the options and alternatives had been adequately recorded and evaluated across the most feasible sites within a reasonable distance of downtown Washington. In their minds this had been done when they published the Notice of Intent for the USCG headquarters. The PBS staff only re-visited the entire data set publicly after the requirements of the DHS were revealed and began to be debated by the consulting parties. Given the failings of the other locations available for its use when the study was done in 2005, St. Elizabeths had been the obvious choice. However, the preservation of the NHL was in the forefront for the GSA's Center for Historic Buildings staff when defending the property. As one member of the CHB staff recalled,

One of the master plan ideas from DHS was... 'we should just level at all, it's a great site, it's got a fence, it will be a secure facility, but just get rid of all these buildings and build it new and it'll be a lot easier.' ...and [the CHB] said "Well, ***no***." One of the things I was told when seeing this in the first few months was "make no mistake, this is not a preservation project" and I said "It can't not be. It's inherent in the site you picked. You did that to yourself when you picked this site, you can't just disregard it. It's not just the consolidation of DHS."⁸⁶

⁸⁵ Beth Savage, GSA FPO Interview, 20Nov2012.

⁸⁶ Beth Savage, GSA FPO Interview, 20Nov2012.

Continual reminders from CHB preservationists helped the PBS remain in compliance with Section 106 procedures throughout the USCG Master Planning process. This not only gave the project the best chance of staying on schedule, but also helped it to avoid costly litigation and counter any bad press. By continually documenting the GSA's efforts to stay within the intent and letter of the law, being immediately responsive to inquiries from concerned parties, and creating a massive and detailed paper trail that showed a concern for compliance (the online St. Es Documentation Center previously mentioned), the GSA publicly laid out its commitment to the NEPA and NHPA processes.

Politics in DC, Both Federal & Local, All At Once

As previously mentioned, politics was certainly at work in the DHS consolidation at St. Elizabeths. When looking the rush to move forward on this project, we must recall what was happening at the time. Republican George W. Bush was President from January 2001 to January 2009, with a re-election in November 2004, and the proposal and planning for the St. Es campus involving DHS took place during his tenure. The signing of the Programmatic Agreement for St. E's on December 9, 2008 took place only six weeks before he left office and a new Democratic president was sworn in.

Between 2001 and 2012 the control of Congress and the Senate flipped back and forth between Republican and Democratic control, with only one session (the 111th Congress from 2009 to 2011) where one party held a majority in both houses.⁸⁷ That Congress, as a result of the election of November 2008 when Barack Obama was first

⁸⁷ Composition of Congress by political party. <http://www.infoplease.com/ipa/A0774721.html>. Last accessed 24Jan2013.

brought in as President, was also seated six weeks after the St. Es Programmatic Agreement was signed. The pre-planned deadline to complete the St. Es agreements fits neatly within the last weeks of the political calendar of that era, allowing it to be seen as a legacy preserving accomplishment of the outgoing administration.

One thought expressed in the interviews was that there seemed to be a concerted effort to delay the project as long as possible, and by doing so the proposals to break up DHS that were in the news might come to fruition before the St. Es project could move forward.⁸⁸ Decisions are a product of their times, and the political and societal time-line of the era needs to be considered while investigating the background behind an undertaking, no matter what their size, but particularly in ones as large as St. Elizabeths.

The DHS and the Consultation Process

Even though they are required to have a FPO (Federal Preservation Officer) and written preservation policies, the DHS appeared to be extremely impatient with the consulting parties and the NHPA Section 106 and 110 process. Records indicate that their desire was to complete the process as quickly as possible, which is why any sites that required time to transfer or turn over (such as WRAMH) were discounted during the initial site considerations. As previously mentioned, some of these could have been utilized with less difficulty and speedier than St. Es, given the delays that were

⁸⁸ http://articles.washingtonpost.com/2012-03-30/business/35446682_1_homeland-security-security-campus-project Last accessed 04Apr2013. See also Appendix 7 where this article is reproduced in full.

eventually encountered with consultations, planning, and congressional funding. The push to move forward may have proven to be false economy.

The DHS' negotiation strategy was described as less of a consultation than a confrontation. One consulting party referred to the DHS interaction as “aggressive” while another hedged their response by saying it was an “education.” Managing the DHS's participation and its interaction with the consulting parties was an important part of the customer service provided by the PBS, but it was only one part. As lead on the undertaking, the GSA was also tasked with compliance, leading consultations, scheduling meetings, distributing documentation, holding discussions and public information sessions with interested parties, overseeing contractors, dealing with design and preservation issues, dealing with public relations issues, and taking care of interdepartmental and inter-agency communications. By acting as the 'orchestra conductor' for all these items, the GSA was in a good position to tailor the experience of the DHS and the consulting parties, and lead them through the complex NEPA and NHPA processes. However, the GSA's outlook of pride, preservation, and compliance was difficult when confronted with a client who had a “winner take all” attitude, and was described by one attendee at the consulting meetings as “just awful.”

DHS has become all anti-terrorism, but that's not all of what DHS departments do. This fervor has overtaken them, and they would be well-suited to try to recalibrate a bit. Yes that's very important, no one would say it's not, but is that the sole overriding purpose of DHS? ⁸⁹

Some consulting parties and community members, while insisting on alternative sites being investigated in fine detail, expressed an 'anyone but the DHS' mindset, which in part could have been brought on by those interactions. The Rev. Anthony Motley, a

⁸⁹ Attributed to Mr. James A. Williams, acting GSA Administrator, by a protected source.

Congress Heights resident for 55 years and president of the Council of Churches of Greater Washington, said: "I'd like to see anything on the site but Homeland Security." Motely recalled picnics, apple picking, ballgames and horseback riding there, contradicting the closed-campus environment of a secure mental hospital.⁹⁰

It is apparent that the dislike between the DHS and the consulting parties was mutual. There are public responses from the consulting parties that reference those exchanges: some point to threats from DHS to walk out on the consideration of St. Elizabeths, with no hope of a negotiated agreement. Reports indicate that contact between the DHS and the consulting parties decreased significantly after the time the draft EIS was released in late 2007.

Preferences & Biases in Research and Negotiated Procedures

A major problem, not just at St. Es but on any project, is that the cultural resource professionals on a project will never be totally objective, as much as they may try. They are being funded by the agencies or organizations or employers who have hired them, whether it is a branch of the government, a private client, or any one of dozens consulting parties. Each looks at a project through their own lens, and in order to get and keep the work, the interests of the party who is making the payments are the ones that will be expressed. As discussed by author and CRM professional Thomas F. King:⁹¹

90 Holley, Joe. *A Tussle Over St. Elizabeths*. The Washington Post, 17Jun2007.

91 King, Thomas F., *Our Unprotected Heritage: Whitewashing the Destruction of our Natural and Cultural Environment*. Left Coast Press. 2009.

If we're so enthusiastic about our client's project, how can we possibly do a responsible, even semi-objective job of analyzing its impacts? Particularly since, if we're working at their pleasure, we have to keep our clients reasonably happy with us. The client wants to build this project, that's understandable, and if we seem to be throwing up environmental roadblocks, he's probably going to start shopping for another consultant.

That being said, professional ethics can only be bent so far. Those that write reports realize that what they write in support or in opposition to a proposed undertaking can be the difference between future credibility and a lack of employment in a particular sector of the field in question.

The first thing that I said when I was given the assignment was "Does the GSA care that is destroying a National Historic Landmark?" The response was "Why do you say that?" and I said "Because you are." Their response was "How can we alter the plan in your mind not to do that?"⁹²

Those interviewed for this thesis expressed a dedication to their field, and were unequivocal in their insistence that they were not required to compromise their integrity for the sake of their income on the St. Es project. Certainly there were discussions, heated arguments, and disagreements in the course of hammering out an agreement (and they continue to this day), but they only occur because of a belief in the principles of the work they are doing: whether it be architecture, preservation, planning, politics, or national defense. We must separate the person from the issue at hand, and understand that each party truly believes they are doing the right thing. Otherwise we cannot hope to create a collaborative atmosphere where a final outcome that provides optimal returns for all is attainable.

⁹² Beth Savage interview, 20Nov2012.

Understanding the motivating factors behind each player in a negotiation or mediation is critical to obtaining an agreement which has the ability to maximize return for all parties concerned. Knowing what is important to the other party allows discussions to move forward in a mutually advantageous manner, unlike the adoption of an adversarial stance which can be a barrier to an optimal solution. Realizing this is imperative when we engage in a negotiation around a complex and controversial project such as this one. By employing professionals who had worked at multiple cultural resource agencies, the GSA understood the background behind the requests of the consulting parties, and was able to work to satisfy their needs.

Transparency in Information Sharing, and Misunderstandings

After the terrorist attacks of Sept. 11, 2001, heightened security standards for all federal buildings were of paramount concern, and releasing information on the ST. Elizabeths project (in the minute detail everyone used to expect before September 2001) was probably difficult for the GSA, given new restrictions on “Sensitive But Unclassified (SBU) data. The GSA directive on this is PBS 3490.1, *Document Security for Sensitive But Unclassified Paper and Electronic Building Information*, issued March 8, 2002, shortly after the formation of DHS. The latest edition, PBS 3490.1A (of June 1, 2009) states:⁹³

Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such information. Those with a need to know may include Federal, State, and local government entities, and non-government entities engaged in the conduct of business on behalf of or with GSA. Non-government entities may include architects, engineers,

⁹³ <http://www.gsa.gov/portal/directive/d0/content/520542> Last accessed 15Feb2013.

consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to GSA or performing work under a GSA contract or subcontract. Contractors must provide SBU building information when needed for the performance of official Federal, State, and local government functions, such as for code compliance reviews and for the issuance of building permits. Public safety entities such as fire and utility departments may require access to SBU building information on a need to know basis. This clause must not prevent or encumber the dissemination of SBU building information to public safety entities.

This included data that revealed floor plans of federally owned, leased or controlled buildings, or those of any proposed buildings, and could mean restriction of access to such innocuous sources as HABS, HAER and HALS documentation (and if taken to an extreme, National Register nomination packages). This led to some misunderstandings along the way between the GSA, DHS and the consulting parties. Although the GSA was doing its best to balance the needs of their very special client with the NHL significance of the site, transfer of data was impeded early in the project. As time went on this was ironed out, but it was a problem seen across the entire Federal government sector, and just as is seen with NEPA and the NHPA, the GSA's work had to set precedents just to get its work done.⁹⁴

GSA at St. Es: Negotiating Between A Rock and a Hard Place

The challenge that the GSA faced at St Es was ultimately not one of process (reaching out to the community, consulting with agencies, keeping elected officials in the loop). In 2005 and 2006 the real challenge was that the GSA had a plan that was opposed on

⁹⁴ Further information on SBU information may be found by viewing a presentation on the St. Elizabeths Public Document site at:

http://assets.stelizabethsdevelopment.com/documents/document_center/SecPerimMOAExhibit_14_SBU1_20100423173346.pdf?CFTREEITEMKEY=D917 Last accessed 10Apr2013.

a fundamental level all of the local and national consulting parties who had the power to impede its plans. The parties were at odds with the way planning for the site was approached, in that they wanted the needs of the NHL put first and the GSA's (and the Administration's) second. They didn't agree with the proposed density or programmatic needs of the DHS related to security, building size and public access, the impacts on traffic or the proposed solutions, or to changes that would occur to the visible skyline of the Anacostia area. Negotiating on those concerns without losing control of its ability to serve the core needs of its client, whose priorities had ultimately been set by the Administration, was the PBS' job.

On the other side, DHS was making demands (recall the desire to see the site bulldozed as mentioned earlier), and design issues that were actually the purview of the GSA. DHS did not appear to be taking a positive attitude about historic preservation, despite having a legally designated Federal Preservation Officer and a support staff. They wanted features that cut the Anacostia neighborhood off from the financial benefits of having a government installation in its midst. The DHS's program was in opposition to nearly everything being sought by the consulting parties. As the lead agency, the GSA and its subcontractors appeared to realize everyone at the table was going to have to work together on additional agreements for this and other projects.

There was a crackerjack team working on the master plan, there's an amazing project manager, there were some very good subs on the team. But part of the challenge was with some of those subs, whose professional opinion did not match what the GSA was having to do. So bridging, and maintaining their professionalism, but trying to push them as far as we could push, to go where the agency needed to go, because there was no way we're going to be able to progress if they

were saying 'this' and we were going to be doing 'that'.⁹⁵

Those involved in the undertaking from the preservation side of the equation were early-on very concerned about getting the right firms on board for the work to insure sensitivity to the preservation aspects of the work: architects and engineers, researchers, archaeologists and consultants who were experienced in work involving the Department of the Interior and the National Parks Service, the DCSHPO, NCPC and other concerned parties in the preservation sphere.

Good planning makes for good preservation, while good planning also makes for good design. Because of the importance and magnitude of the proposed project at St. Es the GSA placed several of its Preservation staff into a special group to just deal with the St. Es project. They were brought in from CHB, PBS Central Office and GSA NCR. There they juggled multiple cultural resource contractors, contact with other government agencies, interested legislators and many regulatory bodies, plus all of the consulting parties. To keep up with the deadline that the Administration and Congress had placed on the project, the GSA needed to boil that all down into summaries, reports and recommendations. Where other projects might have had architects or administrators at the forefront of such an effort, it was the preservation professionals at the GSA who were at the lead of the St. Es project, because without pre-planning the preservation efforts needed to comply with NEPA and the NHPA, the undertaking was going to become a very expensive boondoggle. The volume of information they

⁹⁵ Beth Savage interview, 20Nov2012.

were able to process in a short period of time is impressive, but it has to be realized that their only job was assuring the compliance of this one project.

The desire to save St. Es was in some ways balanced by significant reservations about the project. Beth Savage, GSA FPO said:

There was this inherent 'here's the decision, implement it' and we're saying 'that's not how it can work. We have to listen, we have to hear comments, we have to address them, we are trying to respond to that in fixing the master plan.'⁹⁶

Joan Brierton adds:

Let's just suffice it to say I was able to maintain that line, where I never had to say 'I did it because I was told to.'⁹⁷

There were times, undoubtedly, when that did not make the preservation staff popular within the GSA or with the client. However, when it comes to negotiations, it is important to separate our impressions about personality from the project being discussed.

One difficulty for the consulting parties was the sheer volume of data being produced for the project, and meetings and tours that occurred several times a month. Some parties interested in the protection of the site and the GSA's plans may have found it difficult to keep up unless they also had a staff to attend meetings, process St. Es paperwork, watch the news for reports and press conferences on the project, check the congressional record continuously for parallel projects and budget allocations, and watch government records of land acquisitions and disposals. Interest groups who had been watching the St. Es project had many other items of interest, proposals and

⁹⁶ Interview with Beth Savage, who, at the time relating to this comment, was GSA NCR RHPO.

⁹⁷ Interview comments, Joan Brierton, GSA, PCAB, 09Jan2013.

concerns at one time across DC or the nation, and those outside of Washington were at a decided disadvantage. This certainly had the unfortunate consequence of limiting immediate feedback from outside the area on this project.

The consulting parties made their feelings known throughout the project, in print and meetings, and those records ended up in the online public database. The NTHP, in particular, continuously lead a PR campaign against the project. They and the DC Preservation league (DCPL), National Coalition To Save Our Mall (NCTSOM) and The Committee Of 100 on the Federal City (C100FC) combined on a letter in August 2008 saying:

DHS consolidation should not have been considered for St. Elizabeths. Based upon the information provided to date by GSA, it is difficult for us to conclude that the DHS consolidation is a compatible use for the National Historic Landmark West Campus of St. Elizabeths.⁹⁸

In the local community and with the other consulting parties, the GSA felt it had been extremely proactive. Between January 2005 and March 2006 alone, these actions included:

- A NEPA scoping meeting that included over 3,000 hand delivered postcards to community residents, plus advertisements in newspapers *East of the Hill*, the *Washington Post*, and the *Washington Times*.
- Personal phone calls to encourage attendance of community leaders at the scoping meeting.
- Letters to over 150 agencies, organizations, and residents about the scoping meeting.

⁹⁸ NTHP et al. Letter to GSA, 08Aug2008.

- Two separate presentations to each of the Advisory Neighborhood Commission's (ANC's) in Ward 8 (ANC's were Consulting Parties to the Section 106 process and were invited to the monthly planning meetings).
- Two separate presentations to the Anacostia Coordinating Council (ACC).⁹⁹
- Participation in DDOT's Anacostia Development Fair, where over 400 residents got the chance to take a bus tour of the campus.
- Outreach to the Anacostia Business Association (ABA).¹⁰⁰
- A Community Meeting in Ward 8 by local Delegate Eleanor Holmes Norton, specifically about the St. Es development.
- The creation of the website www.stelizabethsdevelopment.com that would hold critical public information that would be available for access throughout the project.
- Direct contact with DC Mayor Williams, Council Chairman Linda Cropp, Council member Marion Barry, Council member Kwame Brown, Council member Vincent Orange, Council member Kathy Patterson, and Council member Adrian Fenty (who became Mayor of Washington 2007-2011).
- Monthly participation in Anacostia transportation meetings hosted by DDOT
- Stakeholder meetings for several agencies (included DC DPW, DC DOH, DC DMH, DCP&R, WASA DDOT, DCOP, SHPO, MWCOG, V-DOT, MD-DOT,

⁹⁹ The ACC was not in the original list of organizations and individuals contacted by the GSA, but by this point it had become an active participant in the public process. "Founded in 1983, it is a volunteer membership consortium of organizations and individuals concerned with the revitalization of Anacostia and its neighboring communities east of the Anacostia River. ACC is lead by a local board of directors." <http://www.anacostiacc.org> Last Accessed 15Jan2013.

¹⁰⁰ The ABA appears to have shut down in 2011. The Anacostia Economic Development Agency (AEDA) is available at <http://www.anacostiadc.com/> Last accessed 28Jan2013.

WMATA, DC Office of Planning, VDOT, MDDOT, MNCPP, WMATA, U.S. Fish and Wildlife).

- A stakeholder meeting for federal agency neighbors of the St. E's property (included the Department of the Navy, the Air Force and the National Park Service).
- Ongoing Consultation meetings with NCPC, CFA, ACHP, DCSHPO and other Section 106 process consulting parties.

Despite this outreach, some consulting organizations saw the actions of the GSA to move the project forward between January and December 2008 as overly aggressive and schedule oriented, and in some cases took personal affront to the way that the GSA's preservation professionals, as individuals, completed their tasks. The preservation staff, with a combined 100 years of experience in preservation, had worked with or alongside the very groups that were now complaining. The staff on the St. Es project took flack from inside and outside the government, and were under pressure from within the GSA to do what was expedient to move the project forward. The Administration, DHS, USCG, Congress and the National Park Service were all very insistent on their needs, and there were frequent and sometimes tumultuous meetings. At a certain point, inter-agency relations became so strained that a directive had to be made from the very top for agencies to move St. Es toward a conclusion, because the project was an administration priority.

The Coast Guard was not happy about the project

It must be noted that the Coast Guard was very resistant to the proposed consolidation of operations at the new St. Es campus, even if they were moving into a new, purpose-built structure that was one-third the size of the Pentagon. Now working under the DHS,¹⁰¹ the USCG had occupied the same site at the confluence of the Anacostia and Potomac Rivers for twenty five years. This also placed it literally next door to the Naval War College, The National Defense University, The Industrial College of the Armed Forces, and, of course, their own boatyard. New new site would have none of these amenities.

The CG thought it was secure at its current location at the confluence of the Potomac and Anacostia Rivers, having its place cemented in federal legislation several years before with a stipulation that they could not be moved. However, the CG was informed that old legislation can be changed by new legislation, and that's exactly what happened in late 2006.

One example of an objection that was raised by the USCG was the need for seismic upgrades at St. Es.¹⁰² This was due to federal mandates for progressive collapse in the engineering of federal buildings. For existing buildings there is a requirement under Executive Orders EO12941 and EO12699 to utilize the standards referenced as ICSSC RP6 "Standards of Seismic Safety for Federally Owned and Leased Buildings"

¹⁰¹The USCG previously worked under the department of the Navy and actually pre-dated it, being founded in 1790.

¹⁰²This was five years before the August 2011 earthquake in DC that closed several public buildings.

to evaluate buildings and mitigate unacceptable risks.¹⁰³ The concern was in regards to projects that reuse existing facilities, and the St. Es campus had over 60 buildings of various ages. Here is an excerpt from the chapters of most concern to preservation of the buildings (emphasis added):

4.3 Existing Construction Modernization

Existing structures undergoing a modernization should be upgraded to new construction requirements when required by the risk assessment.

4.3.1 Protection Levels

Risk assessments based on the new construction criteria must be performed on existing structures to examine the feasibility of upgrading the facility. The results, including at a minimum recommendations and cost, must be documented in a written report before submission for project funding.

4.3.2 Progressive Collapse

Existing buildings will not be retrofitted to prevent progressive collapse unless they are undergoing a structural renovation, such as a seismic upgrade. Prior to the submission for funding, all structures must be analyzed according to requirements for new construction, and a written report must clearly state the potential vulnerability of the building to progressive collapse. This report will be used as a planning tool to reduce risk. Findings of the design-analysis must be incorporated into the project's risk assessment and include the methodology, the details of the progressive collapse analysis, retrofit recommendations, cost estimates, and supporting calculations.

4.4 Historic Buildings

Historic buildings are covered by these criteria in the same manner as other existing buildings (see 4.3).

Although the raising of this seismic concern may have been a delaying tactic, this was quickly met, as most of the buildings at St. Es being reused that the Coast Guard headquarters would use (an exercise building, a cafeteria, a supply dispensary, etc.) were already being structurally modified on the interior to be safer than the buildings they were leaving. The move was estimated to save the government \$84m over the

¹⁰³ICSSC RP6 was actually written by the GSA, so the Agency was intimately familiar with the scope and intent of that document.

cost of leasing the old and very much less secure Coast Guard site for 30 years (at 2005 prices).¹⁰⁴ Of course, there were further legislative initiatives designed to stall the process.

PL 109-241: The Coast Guard Maritime and Transportation Act of 2006

Coast Guard appropriations and guidance acts are passed every few years. The previous legislation was enacted in 2004, and another was passed in 2012. It includes direction, pay raises, staffing, funding and budgeting, and numerous detailed instructions of what the agency is to undertake while that bill is in effect. The particular bill that dealt with St. Es was passed on July 11, 2006. Within it, as one of several hundred other sections, was tucked this item:

SEC. 212. Limitation on moving assets to St. Elizabeths Hospital—

The Commandant of the Coast Guard may not move any Coast Guard personnel, property, or other assets to the West Campus of St. Elizabeths Hospital until the Administrator of General Services submits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a plan—

- (1) to provide road access to the site from Interstate Route 295;
- (2) for the design of facilities for at least one Federal agency other than the Coast Guard that would house no fewer than 2,000 employees at such location;
- (3) to provide transportation of employees and visitors to and from sites in the District of Columbia metropolitan area that are located within close proximity to St. Elizabeths Hospital;
- (4) for the construction, facade, and layout of the proposed structures, including security considerations, parking facilities, medical facilities, dining facilities, and physical exercise facilities on the West Campus;
- (5) that analyzes the costs of building restrictions, planning considerations, and permitting requirements of constructing new facilities on or near historic landmarks and historic buildings (especially

¹⁰⁴ Adjusting for inflation, as of 2013 that savings would be well over \$100m.

those known to possess medical waste, lead paint, and asbestos);

(6) that analyzes the feasibility of relocating Coast Guard Headquarters [to six other sites]

(7) that analyzes how a potential move to the West Campus of St. Elizabeths Hospital would impact—

(A) the Coast Guard's ability to access and cooperatively work with the Department of Homeland Security and the other Federal agencies of the Department; and

(B) plans under consideration for relocating all or parts of the headquarters of the Department of Homeland Security and other offices of the Department.

This legislation was made to insure that the Coast Guard would not get moved into a new building out in middle of nowhere with no other federal agencies to share the site. Given the vagaries of Congressional funding that we have seen in the last few years, it is apparent from this legislation that the USCG was looking into its crystal ball and not only was unhappy, but feeling quite nervous about the proposed move. If the rehabilitation of the rest of the site wasn't carried out, it was looking at being the only tenant on a site meant for thousands of others, on the opposite side of the river from the 'power center' of Washington DC, and was being referred to by the locals as being 'shipped to Siberia.'

Addressing Increased Security Concerns For Federal Offices After 2001

As far as overall building security for federal office space, there was an increased need and requirement for blast protection after September 2001. Utilizing the St. Es campus provided significant monetary savings in the implementation security measures. By providing adequate gate security and perimeter fencing around the entire campus, the alteration of individual buildings on the St. Elizabeths campus

became unnecessary (several scenarios had been investigated, such as the addition of laminated safety glass to historic wooden sashes and then overlaying that with an exterior blast-resistant storm window). The savings from using perimeter security measures were estimated at roughly \$120m lower than the cost of having to secure and blast harden all of the individual buildings on a campus without controlled access.¹⁰⁵

Section 4(f) of the Transportation Act and the National Park Service

The St. Elizabeths site would require the evaluation of the GSA's Section 4(f) responsibilities of the Transportation Act. This consideration was to look at not only how traffic would get there, but also the impact of transportation funding on the environment, including historic resources and viewsheds. All feasible and prudent alternatives needed to be evaluated as to their projected impact. Six were rejected as being infeasible, imprudent, or both, while four were found as acceptable, with preferences expressed. In the end, a new exit off the nearby Shepherd Parkway was authorized, leading directly to the new on-site parking garage. The problem was that the Shepherd Parkway was on National Park Service property, and making this change would cause a major review of the access requirements because of that status. It would also invoke the ire of those in the NPS who, to this point, merely had an advisory role in the proceedings.

Over the next few months, the back-and-forth between the GSA, NPS and the FHA in regards to the Shepherd Parkway included some stern words. There were threats from

¹⁰⁵ Based on perimeter security estimates during consultation.

NPS that they would de-list St. Elizabeths as a National Historic Landmark if the proposal remained unchanged, and this threat would have been a real public relations problem if it were allowed to go unchallenged.¹⁰⁶ This was countered by the preservation professionals at the GSA by saying that until the proper process was followed and actual physical changes were begun, the NPS could not legally move forward with such an action. Beth Savage said:

We needed to get, as some part of this process, the Shepard Parkway, in order to fulfil the transportation improvements that were necessary to get the people to the site. At the Park Service there was an inherent animosity on that subject. The thing I was able to do was to present the Park Service mindset on this [to the GSA]. The Park Service doesn't think about things the way that you think of them, and just because they have a different perspective it doesn't mean they're wrong. They're on the other side of the fence, so how do we bring them along? The Park Service pushed, and pushed, and pushed the GSA to do its due diligence when we were looking at transportation alternatives, to minimize what would ultimately be a necessary transfer of parkland.¹⁰⁷

Eventually the parkland was transferred. However, the constant interplay between the GSA, DHS, NPS and the various consulting parties consisted of a complex web of interconnected, if conflicting, mandates. Significant negotiation skill and regular meetings helped everyone to better understand the programs and policies involved. One very real issue that impacted the outcome of the consultation process was a historical difference between agencies. This posed a real threat to the protection of St. Es as an NHL, and to the consultation process. One of the more serious issues in regards to this will be covered in the next chapter.

¹⁰⁶ Beth Savage interview comments, 20Nov2012

¹⁰⁷ Beth Savage interview, 20Nov2012.

CHAPTER EIGHT

The Draft EIS & The Section 213 Report: A Critical Turning Point At St. Elizabeths



Illustration 11: St. Elizabeths Center building, decorative terracotta lion, damaged before GSA took control of the property. Author photo

A critical point in the process was the production of both a NEPA-required Draft Environmental Impact Statement and an Advisory Council for Historic Preservation requested Section 213 report, both of which cite adverse long-term impacts to the cultural resources at St. Es. Unfortunately, the impact of these reports was mitigated by a failure to meet a critical deadline, and the case at St. Es begins to raise questions regarding the effectiveness and ability of federal caretaker agencies to function under tight budget constraints, and just how much “Administration Priorities” can impact project outcomes. It also brings into question the effectiveness of inter-agency

cooperation for the protection of Cultural Resources when historic animosities might be getting in the way.

The Draft Environmental Impact Statement (EIS).

The GSA was required by regulations to issue a draft Environmental Impact Statement (EIS). It had to provide a full and fair analysis of proposed impacts. 40 CFR 1502.1 of the Council on Environmental Quality Regulations (CEQR) states:¹⁰⁸

The primary purpose of an environmental impact statement is to serve as an action-forcing device to insure that the policies and goals defined in the Act are infused into the ongoing programs and actions of the Federal Government. It shall provide full and fair discussion of significant environmental impacts and shall inform decision-makers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment... Statements shall be concise, clear, and to the point, and shall be supported by evidence that the agency has made the necessary environmental analyses. An environmental impact statement is more than a disclosure document. It shall be used by Federal officials in conjunction with other relevant material to plan actions and make decisions.

Further, Sec. 1502.9 *Draft, final, and supplemental statements* prescribes (emphasis added):

(a) Draft environmental impact statements shall be prepared in accordance with the scope decided upon in the scoping process. The lead agency shall work with the cooperating agencies and shall obtain comments as required in Part 1503 of this chapter. The draft statement must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.

¹⁰⁸This section may be found at <http://ceq.hss.doe.gov/nepa/regs/ceq/1502.htm#1502.1>. The complete text of these regulations may be found at: http://ceq.hss.doe.gov/nepa/regs/ceq/toc_ceq.htm. Last accessed 24Jan2012.

The task of creating the Draft EIS was contracted to experienced firm The Smith Group. They were in contact with the GSA throughout the process and were fully aware of the positions and objections accorded to the consulting parties. They were also aware that, if they were to favor one side over another, they would be called out on it by the consulting parties. If that happened, as stated in Sec. 1502.9, that could bring about a need for a revision and a re-circulation of the report, which would delay the NEPA process and therefore the proposed undertaking even more. To understand this we must utilize both parts of Section 106 and the NEPA regulations.

The criteria of Adverse Effect under Section 106 of the NHPA, 36 CFR 800.5(a)(1) – (2) is (emphasis added):

(1) An adverse effect is found when an undertaking may alter, directly or indirectly, any of the characteristics of a historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling, or association. Consideration shall be given to all qualifying characteristics of a historic property, including those that may have been identified subsequent to the original evaluation of the property's eligibility for the National Register. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be they farther removed in distance or be cumulative.

(2) Examples of adverse effects.

Adverse effects on historic properties include, but are not limited to:

- (i) Physical destruction of or damage to all or part of the property;
- (iv) Change of the character of the property's use or of physical features within the property's setting that contribute to its historic significance;
- (v) Introduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features;

The definition of the term “significantly” under provisions of NEPA; 40 CFR Sec.

1508.27 requires the consideration of both context and intensity. An action needs to

be analyzed for significance in several contexts, such as its significance to society as a whole, significance to the region, significance to the locality, and its significance to all the affected interests. Significance varies with the setting of the proposed action: In the case of a site-specific action, significance would depend upon the effects in the locale (rather than the whole wide world). Both short and long term effects are relevant to significance.

Intensity refers to the severity of impact that the proposed activity will have. Officials must bear in mind that more than one agency may make decisions about different portions of an action. When evaluating intensity, we need to consider:

1. Impacts that may be both beneficial and adverse (A significant effect may exist, and the impact of that effect has to be considered even if the Federal agency believes that the effect will be beneficial)
2. The degree to which the proposed action affects public health or safety.
3. The unique characteristics of the geographic area, such as its proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
4. The degree to which the effects on the quality of the human environment are likely to be highly controversial.
5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
6. The degree to which the action may establish a precedent for future actions, with significant effects or represents a decision in principle about a future consideration.

7. Whether the action is related to other actions, and to what extent their with individually insignificant may become cumulatively significant impacts. A determination of significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural, or historical resources.
9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.
10. Whether the action threatens to be in a violation of Federal, State, or local law, or requirements imposed for the protection of the environment.

For all these reasons, the GSA preservation staff insisted that the report had to be unbiased and thorough, and that is what they got. It makes for painfully blunt reading. The overall assessment was that the level of density and the associated demolition required would result in a “major, long-term adverse effect to the site,” and that assessment would not, and *could not* be glossed over. As the old saying goes, "You can clean up a pig, put a ribbon on its tail, spray it with perfume, but it is still a pig."¹⁰⁹

¹⁰⁹“Lipstick on a pig' finds origin in tiny state newspaper.” Guzman, Monica. 10Sep2008
SeattlePi.com www.blog.seattlepi.nwsourc.com Last accessed 16Feb2013.

Given history and the import of this proposed undertaking, the GSA could not afford to be accused of taking part in an exercise designed for optics alone.

The Smith Group and the CPB knew that, when evaluating historic and cultural significance and assessing impacts and effects (all of which are qualitative processes), they had to take place within established professional practices and in accordance with other laws, regulations, standards, guidelines, administration and agency policies.¹¹⁰

Quoting again from 40 CFR 1502.9 (emphasis added):

(b) Final environmental impact statements shall respond to comments as required in Part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency's response to the issues raised.

This is one place where that spreadsheet system of recording issues came in so useful. The professional credibility of the preservation staff and that of the GSA's contractors was at stake while working on this project. They all would be seen as not operating in good faith had they not fully acknowledged adverse impacts on site at St. Es, and a loss of that credibility could have incited challenges, both legal and otherwise, in a domino-effect of repercussions that would have been felt on projects across the nation. If a case could have been made to involve Congress (and if the GSA could be portrayed as being less than truthful and diligent, such as at the Winder Complex or the African Burial Ground cases) it would have been much worse than dealing with it as the blunt truth, right from the outset.

¹¹⁰ This includes the test of “a reasonable professional” as a part of the standard of care and duty of care stipulations existing today as descendants of English Common Law.

By following the procedure and releasing the draft EIS document just as the Smith Group wrote it, without meddling with the final product, the GSA showed it was confident that it could stand on its expressed desire to fulfill its obligations under NEPA and the NHPA, while continuing to document public participation in the process and presenting itself as operating fairly and openly. The DHS, with its adversarial approach to negotiation and preservation, was less than convinced, but kept in the background and away from the consulting parties.

The GSA released the draft EIS in September 28, 2007 with a copy directly to the NCPC. The NCPC pointed out in its response that the draft EIS states itself that the proposed undertaking would have “major, direct, long-term, adverse impacts” as well as “adverse effects” to the National Historic Landmark campus. These were attributed to: (1) the size and nature of the construction program; (2) the loss of historic buildings and the landscaped setting of the campus; (3) the altered or obstructed viewsheds to, from, and within the campus; (4) the increased traffic in the neighborhood; (5) and the changes needed to the regional transportation and utility systems that would alter both the campus and its surroundings. On the positive side, the draft EIS had pointed out that the comprehensive modernization of the infrastructure and introduction of the new facilities required would result in the rehabilitation of many of the historic buildings and their re-use for new purposes; however, some of the historic buildings would be demolished (6 total) to make way for other work on site, and much of the landscape character would be “lost to an

altered campus composition”¹¹¹ because of the massive amount of office space being added to the site.

The Section 213 Report

Section 213 of the National Historic Preservation Act (NHPA) [16 U.S.C. § 470u]

states:

To assist the Council [ACHP] in discharging its responsibilities under this Act, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

In 36 CFR § 800.10(c) it specifies that Section 213 Reports may be requested when an undertaking affects a National Historic Landmark. Reports have generally been sought for undertakings in which consultation was particularly difficult and/or controversial. They must, according to the regulations, be completed in sixty days (unless ACHP and NPS specifically agree on a change to the time schedule), and the production and return of those reports must follow a specific chain of command.¹¹²

A statement from the ACHP regarding Section 213 reports says

111 St. Elizabeths draft Environmental Impact Statement (EIS). The complete document is found at http://assets.stelizabethsdevelopment.com/documents/document_center/9_Chapter%206.pdf?CFTREEITEMKEY=D98 Last accessed 19Jan2013.

112 “The ACHP Executive Director will submit a request for a Section 213 Report to the NPS Director, with a copy to the NPS Associate Director for Cultural Resources. The ACHP Executive Director will identify in the request the appropriate ACHP staff points of contact for working with the NPS. The NPS Associate Director for Cultural Resources will forward the request for the Report to the appropriate NPS Regional Office. The completed report will be forwarded by the appropriate NPS Regional Director with appropriate cover sheet, in electronic (PDF) format to the ACHP Executive Director, with a copy to the NPS Director and NPS Associate Director for Cultural Resources. The ACHP will transmit the Report to the consulting parties upon receipt from the NPS, and shall make the Report available to the general public on its website.” <http://www.achp.gov/213guidance.html> Last accessed 19Jan2013.

“The NPS will take reasonable steps to keep the ACHP informed of the progress of the Report until the final Report is submitted. The ACHP will forward the progress reports to the other consulting parties upon request.”

The Section 213 Report, with a sixty-day deadline, took over ten months to be provided from the NPS to the ACHP, and did not arrive officially until November 6, 2007.¹¹³ To put it plainly, the NPS missed a legally mandated deadline. In the report, the NPS admits it is based on the Draft EIS, and copies-and-pastes its findings nearly verbatim from that Draft EIS. It repeats the threat of de-listing of St. Elizabeths as an NHL because of the proposals on the table. This report became, in essence, an executive summary of the GSA's Draft EIS, not at all what was intended when the concept of a Section 213 Report was created.

A Failure at the ACHP and the National Park Service

The proposals for the fate of the cultural resources at St. Es may have been troubling, but a failure on the part of the NPS to act swiftly to compile the Section 213 Report based on its own research, probably altered the course of the project. This was a critical report required at a critical point in the history of St. Es, and those deadlines are there for a reason: the timely assessment of cultural resources is vital to ascertain their status and the magnitude of the threat to them. While this report was supposedly being written, consulting party meetings continued for months and months, decisions were made, and the hard work of negotiation and mediation continued on the GSA-designed NEPA time-line.

¹¹³ A copy of this report is included in Appendix E, and is also accessible through the ACHP website at <http://www.achp.gov/docs/st-elizabeths-section-213.pdf> Last accessed 19Jan2013.

The NPS waited ten months to begin to write this critical but tiny six-page report, something they should have easily been able to provide within the sixty-day time-frame using information at hand and a miniscule amount of research on their own part. Instead, NPS waited to base its report on the Draft EIS, a document created provided by a GSA subcontractor. Even worse, there is no evidence publicly available that the ACHP tried to keep them on the required sixty-day deadline. In the end, this brings to the fore the realization that the ACHP has no actual power to enforce its deadline against the NPS.

Why would this report have been delayed? Information from other consulting parties point to budget shortfalls at the NPS as the problem. The staff at the NPS regional office who were tasked with creating the Section 213 Report found themselves overworked and unable to respond in a timely fashion. Ten months for a six-page report is clearly excessive, but it points points to a problem even bigger than the St. Es project: that of a system of overlapping protections that are being systematically dismantled, not by legal declaration or a change of statute, but by funding cuts. This inability to adequately protect cultural resources puts properties across the country at risk.

The GSA, for its part, really had little to fear from the delayed Section 213 report because on their staff was a person who had worked at the NPS for two decades, and was as intimately familiar with these reports. Since the GSA was providing the majority of data for the draft EIS, it knew exactly what that EIS would say: there were significant adverse impacts. The GSA probably even knew the NPS was short staffed.

This knowledge and the subsequent delay allowed the GSA to take eight extra months to set the stage for a reply to the Section 213 report and the Draft EIS, and plan the direction of the project into the future.

Instead of the Section 213 Report influencing the Draft EIS, as intended when one of these very rare and crucial works is requested,¹¹⁴ we instead have placed the cart before the horse by making it merely an executive summary. The release of the Section 213 report on time, back in March of 2007 rather than November 2007, could have changed the direction of the St. Elizabeths consultation. This report could have provided additional ammunition in the public relations realm, for regulatory compliance debates, and led to a more informed legal evaluation of the project. It also would have influenced research and writing of the Draft EIS. Providing the Section 213 report earlier would have provided the same critical content, as other NPS personnel involved in the consultation could have easily have filled in the gaps.

Instead, the NPS and the ACHP are left, at best, appearing to have failed in their responsibility to act diligently and with all due speed, in the best interests of this National Historic Landmark. This failure allowed the consultation for the project to continue on the course set by the GSA, and not necessarily within the spirit of the regulations laid down to protect the site.

The failure of the NPS to place this as a top priority might be seen as a resignation to the inevitable, given the previously mentioned administrative pressure to move the

¹¹⁴ Years go by when no Section 213 reports are requested, and less than 20 exist to date.

project forward. It could also be a remnant of animosity from the historic foundation of the ACHP decades ago, when it was brought into being by being excised from the NPS. At worst, given a more cynical reading of this situation, there is no way to completely rule out the possibility that the delay in production of the Section 213 report served a particular purpose. If you had wanted to make sure this report's release would have minimal effect, you could not have planned better timing then to release it after the Draft EIS. Then again, it could just have been overwork, priorities, and lack of funding for additional staff at the NPS. The reasons behind the delay will probably never be fully known.

CHAPTER NINE

St Elizabeths Consultation: December 2007 to January 2009



Illustration 12: St. Elizabeths Heat and Electricity Plant. Author photo

In this chapter we shall cover the St. Es project from December 2007 through January 2009. This begins with the “pause and reflect” period, and runs through through the creation of the GSA 'A' team. In the end we will cover the final negotiations, concessions, and agreement documents that pressed the project forward to a final Programmatic Agreement on December 9, 2008.

Pause and Reflect- December 2007 through March 2008

In December 2007 that the St. Es project at the GSA entered a period referred to as “Pause and Reflect.”¹¹⁵ There had not been a consulting party meeting since the end of July 2007, and the GSA didn't re-emerge with a public plan to move forward until March of 2008. However, that plan had no doubt been designed over weeks of internal meetings, planning, strategizing and consideration of alternatives with the subcontracting architects and planners. It led to concessions, and the Programmatic Agreement signed at the close of the year.

Beth Savage said of this period:

There was a critical point when the GSA acting administrator was called to appear before Congress and asked about the master plan for St. Elizabeths. The question was “Will you be able to accomplish this by December 9, 2008?” and he said “Yes.” Management back at the GSA's Central Office heard this live on TV and said “Oh my God.”

The only way to have a chance was to pull the “A team” together and make them sit together for collaboration, in the same room, know everything each other was doing all day long, have a daily 15 minute meeting each morning- what's on the docket for today, who's got what, who's handing off- That's when I was told, “you're moving over from NCR, you need to be sitting in the 'war room' to make St. Es happen.”

And so Joan [Brierton] and I and George [Siekinnen] are placed [together]. And we were told “This is your full-time job, this is what you're doing, we *will* achieve this.” Bill Guerin was appointed the executive for the St. Es team, and they brought over the development director Dawud [Abdur-Rahman] from NCR.

There was a lot of resistance... NCR was like, “wait a minute, Central Office is taking this project over?” But it also became, you know what, this is the GSA's project. This has to happen, so here's the team. My first question [when assigned] was “do I have a choice in going over there?” and the answer was... [shaking head].¹¹⁶

115 There is no official written record of this period's existence, its start or finish. It is referenced only in verbal discussions and interviews. However, it forms a definitive place in the progress of the St. Es consultation as far as the participants are concerned.

116 Interview with Beth Savage, GSA FPO.

In the Fall of 2007 the GSA sat back and made no public statement about the Section 213 report at the time it was released. As a matter of fact, it is not clear in the ACHP's constituting and operational regulations if a response to the Section 213 report was required, expected, or if a rebuttal was even allowed.¹¹⁷ Behind the scenes at the GSA, however, the wheels had long been turning.

The idea about moving the new offices for FEMA (a part of DHS) across the road onto the now District of Columbia-owned St. Es East campus was reintroduced. This was estimated to be able to reduce density on the West campus by a total of 1.5m GSF of combined office space and parking. It reduced the west campus project from 4.5m GSF to 3m GSF, the upper limit proposed by the consulting parties. In addition, design changes were proposed to sink the proposed parking structure several more floors into the ground, while increasing the green aspects of the project.

From August 2007 (the last consulting party meeting of the year) through March 2008 (the end of the GSA 'pause and reflect' period), the consulting parties continued to publicly express displeasure with the process. They continued to seek a change of venue as the EIS and Section 213 Reports were released. The changes which had been newly proposed for the West Campus project in the Spring of 2008 relieved public opposition, showed GSA flexibility, and its timing proved to be an excellent negotiation tactic. Site visits for the consulting parties brought focus back to the

¹¹⁷ Good examples on the ACHP website include the Section 213 Report on the Presidio, another famously contentious project from a decade before.

discussions, and both regularly-scheduled consulting sessions and one-on-one meetings restarted. These and other measures taken in early 2008, with promises fulfilled and correspondence handled like clockwork on a daily basis put the St. Es NEPA and Section 106 responsibilities back on schedule. The GSA St. Es team became a well oiled compliance machine.

Moving Forward on St. Es, Spring 2008

From that point, GSA communications showed a united project vision. Public relations and communications improved markedly. Every response, press release and news story commentary by the GSA is perfectly stated, and on-message. On the other hand, a few of the consulting parties began to distance themselves from controversial comments about the project, and some even contradicted each other. The spreadsheet responses show a careful and deliberate process to create a record of public consultation and compliance, even when some outside parties or other government agencies decided to publicly lambast their work.

The word of the hour was compliance. By documenting in exquisite detail, carrying on regular public consultation, and controlling public relations by making preparations in advance (things that only occurred ex-post-facto at the Winder Complex and the ABG), the GSA had a powerful tool that it could wield with extraordinary efficiency and effect. As the GSA left the 'pause and reflect' period, it issued a press release in early 2008:

This initiative is the greatest real hope for preserving the historic buildings and landscape that define St. Elizabeths as a national historic landmark--if not this, then the buildings and grounds will continue to

decay... This is an unparalleled level of investment never before seen in Ward 8, one of Washington's most underserved yet promising communities. The extent of this investment is one in which only the federal government, certainly in this economic climate, can undertake. It is this type of investment that is needed to serve as the catalyst for neighborhood reinvestment and revitalization and we are proud to be a major contributor in that initiative.¹¹⁸

NCPC, DCSHPO, CFA and ACHP began to line up over the spring and summer of 2008, and eventually helped negotiate the final Programmatic Agreement with the GSA and DHS. That December 9, 2008 deadline, however, was a bit later than was first estimated. As mentioned previously, in 2005 the original period for historic preservation consultation was set at forty days. As will be shown, it eventually dragged on to four years.

GSA and the NEPA process: The Final Environmental Impact Statement (EIS)

The final EIS document, dated November 7, 2008 (almost exactly a year after the draft was released), includes a comprehensive list of mitigation measures to be taken for the parts of the site where design minimization was not going to be enough. Under 40 CFR 1502.14, mitigation measures that had not already been included in the proposed action (or alternatives) needed to be addressed in this document. According to 40 CFR 1508.20, mitigation entails avoiding, minimizing, or rectifying impacts to the environment. However, mitigation does not fully offset all adverse impacts. The final EIS stated:¹¹⁹

¹¹⁸ GSA press release quoted in a communication to the NTHP, 21Oct2008.

¹¹⁹ St. Elizabeths Environmental Impact Statement (EIS). Accessible through the online public document center: Mitigation and commitments section:
http://assets.stelizabethsdevelopment.com/documents/document_center/10_Chapter%207.pdf?CFTREEITEMKEY=D99 Last accessed 19Jan2013.

A Programmatic Agreement (PA) will be written for St. Elizabeths that will describe the approved Master Plan for the development of the site, that will establish the actions that will be taken to avoid, minimize or mitigate the adverse effects to the NHL contributing resources, that will include design guidelines to direct the restoration and rehabilitation of buildings and landscapes, and that will establish a process for ongoing review of the undertaking.

A PA is typically used when the full effects of a project on the cultural resources cannot be determined at the early stages of the project and, because of this, it works extremely well with the NEPA process. At St. Elizabeths, the design specifics for the rehabilitation or additions to the historic buildings and landscape, the location and design of utilities and roadways, and the designs for new construction may not be finalized for many years. The PA provides a structure for continuing review as the site development moves forward based on funding and DHS' operational needs. It defines the parties that will participate in the review, their obligations and responsibilities, the time frame in which review will occur, and procedures for dispute resolution. The PA will also identify activities that may be exempted from review.

As part of the PA and to support and provide a framework for the review of specific building or site projects, design guidelines will be prepared for the site. The guidelines will establish the acceptable parameters for preservation and protection of the cultural resources on the site, rehabilitation of the buildings and landscape that are consistent with the Secretary of the Interiors Standards, and for sensitive, compatible design for additions and new construction.¹²⁰

The GSA pulled out all the stops in the last 12 months, and the comprehensive list of participants and contractors in the creation of the final EIS reads like a “Who's Who”

120 St. Elizabeths Environmental Impact Statement (EIS). Accessible at: Mitigation and commitments: http://assets.stelizabethsdevelopment.com/documents/document_center/10_Chapter%207.pdf?CFREEITEMKEY=D99 Last accessed 19Jan2013.

of top practitioners and firms.¹²¹ The Programmatic Agreement (PA) was already being hammered out as the final EIS was being released. Following it was the NEPA Record Of Decision for the DHS Consolidation at St. Es, released on December 7, 2008. Following that the FHA Section 4(f) Evaluation was released on December 8, 2008.

The St. Elizabeths Programmatic Agreement, December 9, 2008

One of the most important aspects of the consultation was documenting any agreement, and that is done through formal, legally binding Programmatic Agreements and Memoranda of Agreement. A site may have one or several of each, depending on the complexity of the undertaking. The Programmatic Agreement for the St. Elizabeths NHL was followed by several Memorandums of Agreement covering different parts of the project. For the St. Es project, for example, the USCG MOA covers the United States Coast Guard Building, Garage, Cemetery, and the specific site work associated with these parts of the undertaking. Additional MOAs for St. Es include: The Security Perimeter (excluding the cemetery); Shepherd Parkway; Adaptive Reuse of existing historic structures; and the Public Access Program, including the Gate Houses, Entrances and Firth Sterling. It's all very complex, and all interrelated.

¹²¹ The comprehensive list may be found at the St. E's public documentation center http://assets.stelizabethsdevelopment.com/documents/document_center/9B18B499DB6FC03562F152193594F896.pdf?CFRTREEITEMKEY=D101 Last accessed 19Jan2013.

The Programmatic Agreement was finally signed December 9, 2008, on the four-year anniversary of the GSA taking over the property from HHS.¹²² Even as it was being carried from office to office for signatures, DHS was still trying to change its content via the telephone, and in the end, they would be the last of the day to sign it.

¹²² The full PA document may be viewed at:

http://assets.stelizabethsdevelopment.com/documents/document_center/St.Es_ProgAgreement_Final_812091_20100419161713.pdf?CFTREEITEMKEY=D600 Last accessed 09MAY2013

CHAPTER TEN

Mediation, Negotiation and Push-back During the St. Es Consultation



Illustration 13: St. Elizabeths site visit August 21, 2012, approaching Coast Guard Headquarters construction site. Left to right: Thomas Otto, Beth Savage, Tom Richmond, Joan Brierton. GSA photo.

In this chapter we shall discuss mediation, negotiation, and the methods the consulting parties had at their disposal to keep the process in check. In comparison, the power of the GSA's PBS and its ability to act as an experienced ringleader in a process that is focused on compliance is discussed, and its ability to avoid lawsuits and divert interference to its plans. As an example of the law of unintended consequences, however, short-sightedness and poor planning may have both masked another site that would have been more suitable fit, and may have doomed the preservation portion of the St. Es project to 'death by funding shortfall.'

Consultation, Mediation, Negotiation: What's In A Word?

On the St. Elizabeths project, the participation of the NTHP and the other consulting parties had a significant impact on the undertaking, driving the GSA to an exceptional amount of due diligence and to seek multiple alternatives. The place of the GSA in the project consultation process moved between mediation and negotiation quite regularly, and for good reason. At times, the GSA was the mediator in the middle of the process, with the consulting parties pushing back, insisting on rules and regulations, and having the power to take the GSA to court if they did not walk the finest and most perfect line for consultation to the letter of the law, or if the GSA did any work at St. Es that they were not pre-briefed on. The DHS seems to be an agency that chafes under the yoke of oversight, and is not used to seeing opposition to its decisions. This made for a client that wanted it all, and wanted it on a short timeline.

If all you have is a mediator representing the owner of a building or site (GSA), and a client (DHS) who is also related to the owner, the client would generally get everything it wants, whether it is reasonable or not, whether it is in their own best interests or not. Given the institutional size and national importance of the DHS, without the push-back of the preservation consulting parties on the opposite side of the issues, the GSA could very well have been rolled over by its much more massive client, whose financial resources, available manpower and national security interests might have led to an outcome that would have literally flattened the St. Elizabeths west campus. The consulting parties prevented that from happening because of their tenaciousness and the clout they wielded due to the NHPA and the NEPA process, and they deserve their due in this process.

To properly mediate or negotiate, all the data needs to be shared equally between the parties concerned. By making sure everyone has an even playing field, we have the best chance for a solution that optimizes the total value of the outcome. This is the intent of the NHPA, NEPA and all those regulations quoted in this thesis: protection of our cultural resources against the actions of the Federal government, its agencies, and the funding of its destruction by those agencies.

Laurence Susskind, author and mediation expert, says that a mediator should be held accountable for an agreement that he or she mediates. It simply isn't enough to ask whether the parties find the agreement to be acceptable. He also states:

. . . mediators ought to accept responsibility for ensuring (1) that the interests of parties not directly involved in negotiations, but with a stake in the outcome, are adequately represented and protected; (2) that agreements are as fair and stable as possible, and (3) that agreements reached are interpreted as intended by the community at large and set constructive precedents... Otherwise, mediation can be used as a device by which the stronger party takes advantage of the weaker, or they both take advantage of others.

Losing trust and respect during the St. Elizabeths mediation and negotiation process could impact future consultations undertaken by the GSA on other projects across the country. A lack of trust could cause a prolonged consultation period, magnify the chances of a public relations nightmare situation (thinking back to the Winder Complex and the ABG), delay a project, and make a damaging lawsuit on this or other projects many times more likely. Leigh Steinberg, author of “*Winning With Integrity*” states:

There are obvious categories of facts that exist that you would like to

emphasize less than others, that might point to your weak spots more than your strengths. You cannot ignore these or you will lose credibility... I have to include [those facts] in my presentation. The other party is certainly going to be aware of [those facts]. It's better for me to acknowledge it up front and address it in a way that does not detract from my overall argument than to simply ignore it and hope it will not come up.¹²³

The draft EIS was brutally honest. When the GSA released it, the staff members were fulfilling one of the other primary rules of negotiation: be totally truthful in what you do chose to reveal. Information is power, and what you reveal shows a form of respect to the other parties in the negotiation. If that information is laced with hyperbole, exaggeration or dishonesty, the negotiator insults the other parties involved, and loses their trust and respect.

Being as truthful as possible, within the constraints of client and federal government secrecy regulations, we can see was important to the GSA. This was not only because of the professional integrity of the staff, but also any intentional dishonesty could be even more damaging (which is again an echo of the Winder and ABG projects). Because of the GSA's position in property disposition, preservation, and management projects, there is usually a brightly focused spotlight on it, and with the St. Elizabeths undertaking a lot of people had been watching and taking notes. If the GSA could be seen as getting away with ignoring federal regulations, then others would try too, both inside and outside the government. The need for the GSA to make the optics of the consultation conform to the concept of compliance was absolute.

¹²³ Stenberg, Leigh. *Winning with Integrity: Getting What You're Worth Without Selling Your Soul*. New York. Villard Publishing (1998), pp. 71, 72.

Make Your Plan, Then Execute it

An effectively planned and executed communication, consultation and negotiation / mediation plan can take a set of facts and use them to set an appropriate project framework. By presenting this framework, the GSA was setting up the reality by which the discussions and consultations took place under. In the end, the party that controls the parameters of that reality¹²⁴ controls the negotiations, and their reality will, in the end, prevail. The point was for GSA to get its view of reality out first, and by doing so, influence the consulting parties to convince themselves that the GSA's proposal made sense. Again, I point to the eight-month delay in the production of the Section 213 Report by the NPS, and how that time must have been used to their advantage by the GSA when crafting a planned response.

It is important to note that no evidence in the research or interview process emerged of the PBS itself of being anything other than honorable, and no sense from the consulting parties that anyone thought otherwise. This is not to say that the GSA was perfect, or didn't try to take the occasional scheduling shortcut. The PBS staff is adept at strategy and planning project campaigns to their best advantage, as good businesspeople have to be. The GSA staff was adept at moving between the roles of mediator and negotiator at various stages in the process, depending on what was happening in the public, regulatory or legal process at the time, and this flexibility served everyone well.

¹²⁴ Assuming the release of information and the negotiation are done in an open and honest manner.

The controversial nature of the St. Elizabeths project involving a National Historic Landmark and a massive increase of building coverage and site population was not unexpected. Concerns about the fate of St. Elizabeths property had been expressed by many parties and for many years. However, when we consider the release of the interim EIS and the Section 213 report, we have to once again reconsider both the terms 'minimization by design' and 'mitigation' in a whole new light, not as it applies to the St. Es NHL, but as it applies to the actions, policies, interpretation and public relations efforts of the GSA. The PBS staff assigned to this project had the experience and the opportunity to foresee issues before they were encountered, and could plan ahead to minimize their impact on the GSA and the project. They could pre-evaluate all the possible responses for mitigating problems that were undeniable, controversial, and unavoidable. It was most likely akin to being able to create a public relations plan for a political crisis months in advance.

Experience In Mediation and Negotiation Is Vital

You can almost take a monkey and teach it how to write a Historic Structures Report, but you can't give it the experience gained from sitting on different sides of the negotiating table for different parties. You can't have it learn how to negotiate serious issues regarding the survival of important historic sites from a book. Political and negotiation knowledge, gained in the field and honed in both winning and losing battles, is vital for the preservation of the field of preservation.

Being able to accurately gauge how a proposed undertaking will be viewed is also important when it comes to planning your strategy. It was this ability that allowed the

GSA to be the one to set the agenda for the St. Es negotiations. A negotiation has two parts, the first part being the one which sets the tone and scope of the negotiation. Whoever can set those rules is eventually, statistically, going to come out on top in a negotiated situation. By arriving at a negotiation session with a plan, prepared and armed with sound facts, the other parties see that you think enough of them and their capabilities to have done that research and homework. However, those taking part may not realize that by taking charge you have already taken a critical step toward accomplishing your goals, and the GSA had a lot of experienced and well-paid people dedicated to helping plan this campaign. The GSA staff got off to a rough start in the first few months at St. Es (as I noted earlier), but in the end, they recovered magnificently. How do we define winning in this case? Is it no lawsuits, and signed agreements that let the project move forward? Do we need to reconsider this outlook, based on whether good stewardship practices for our cultural resources are being served, or not?

The Carrot & The Stick

The National Trust, as a major player in the St. Elizabeths consulting process, appears to have exhibited little interest in compromise. Why would this be? Was the NTHP just really bad at negotiation, mediation, and conflict resolution? No, far from it.

The answer lies in the negotiation itself. In order to progress and enhance the protection of the site, the NTHP and the other consulting parties had to represent the buildings, the landscape, and the cultural resources as a complete, inviolable entity

within a historic district. They always had the possibility of litigation in their arsenal, something the PBS in particular desperately did not want to give them the opportunity to use. Another Winder or ABG fiasco was not what the GSA needed, and the PBS had the long-viewpoint ability to see that.

As we saw, the National Trust was more than ready to use legal action against the Army at WRAMC in 1996. At St. Es, the PBS and preservation staff helped the GSA take the lead in consultations, responded promptly, and acted respectfully in regards to both the historic resources and the consulting parties. They did this because historic sites are important, but it was their job under multiple statutes to protect and maintain these regulatory structures. They worked hard to insure compliance, to make sure all the documents had their T's crossed and their I's dotted in respect to federal policy and preservation practice. However, a huge factor behind this, at least from an administration standpoint, was to prevent legal action from impacting the project schedule. Joan Brierton stated:

The only thing that was going to allow us to do a better project was the law. It was the representatives from the legal counsel's office at the Trust that made the project better. So much time has passed, and the pain exists, but we never want to underestimate how much we gained in the consultation process for that site.

The law keeps us engaged, it keeps us compliant... but the law is also a loophole, because as long as you counted every penny, dotted every I and crossed every T, we could get done what we needed to get done. So does that raise a question about the strength of the law, or it's value?

So here we are in the same position as in the African Burial Ground. The project is done, the money is used up. We don't budget for mitigation, we always say it's going to come out of project funds. What do you do when the project's done? When the project is done from the construction standpoint, the way our funding works, we don't have any

more resources, and so we don't have any funds [left] to do mitigation.¹²⁵

If government agencies were left to their own devices, no matter if we are referring to the Army Corps of Engineers, the Nuclear Regulatory Commission, NASA, the Federal Housing Administration, or the GSA, the results would arguably be rote and and perfunctory. This is one of the reasons why the NHPA and NEPA were enacted, and they provide the “sticks” used by organizations such as the National Trust. Failing to live up to its NEPA, NHPA section 110 and 106 responsibilities, and the requirements under several executive orders was not an option. This insured that all the work would have to be of the highest caliber possible, with the greatest consideration for the input of the consulting parties (the ones that could have sued them and made a public relations nightmare of the project). Showing flexibility was a way of engendering goodwill and showing a real determination to meet the spirit and intent of NEPA/NHPA Section 110/106 responsibilities: this flexibility and goodwill discouraged legal action by project opponents. Beth Savage stated:

The National Trust was regularly threatening to sue us. So what would be the grounds to sue us? They were looking at NEPA, but we felt we were totally covered on NEPA, so what are the grounds? This was constant throughout the project.¹²⁶

The fact that the threat of a lawsuit was never recorded in meeting minutes or put into a written communication from the Trust or other consulting parties (at least not in any that are publicly available) doesn't mean it never happened, either. The closest we get to the written hint of such a threat comes because a majority of written communications from the Trust came under the signature of Ms. Elizabeth Merritt, the

¹²⁵ Interview comments, Joan Brierton, GSA, PCAB, 09Jan2013.

¹²⁶ Ibid.

NTHP Deputy General Counsel. To each of these a senior GSA administrator responded with a multiple-page communication outlining the positive aspects of the project, noting several improvements that had come out of work with the consulting parties, responding to specific points in a positive fashion and showing an appreciation for the process to date. The GSA used this format so often that, in time, the communications from the consulting parties began to take on the same format (with a different focus, of course).

Considering options that would balance development between the two campuses by moving some development just off the site went a long way toward reducing the proposed density on the West campus, and reducing the possibility of a lawsuit. The GSA showed good faith in the process by crediting the consulting parties persistence for the change. This several hundred million dollar change to the project was made by moving nearly one million gross square feet of office space and parking to the East campus (on the opposite side of the road) to house FEMA (a part of DHS), building a secure transportation tunnel to connect the sites, and planning to rehabilitate East campus historic structures to provide that space.

This change was intended as evidence that the GSA was willing to make compromises for the sake of preserving the fabric of the Historic Landmark site. The concept was even floated about adding a new stop on the Washington DC Metro Green Line to service the St. Elizabeths complex (where thousands of new workers would otherwise be commuting by automobile) as a positive improvement that would reduce traffic and

increase investment in the community.¹²⁷ By agreeing to pursue these actions in the later stages of negotiation (after the Section 213 Report and the GSA's “pause and reflect period”), the GSA took the wind out of the sails of some of the more strident opponents of the undertaking, and strengthened its bargaining position in the event that a court battle was ever undertaken.

Despite this, on the eve of the confirmation of the PA for St. Es by the NCPC in January 2009, the NTHP made sure the GSA knew it was keeping up the pressure in a *Washington Post* editorial timed for maximum effect. In part it said:

The National Park Service calls the GSA plan "wholly incompatible" with the preservation of St. Elizabeths. What's more, the government's own projections show that after all the tearing down and building up and paving over are done, the St. E's campus still would not provide all the office space the DHS needs. The preserved structures would effectively be walled off from public access. In the meantime, a unique urban asset would be wasted, a historic treasure would be turned into a fortress and a once-in-a-lifetime opportunity to spark revitalization in a long-neglected neighborhood would be lost.¹²⁸

To dissect this one paragraph of the letter:

- The National Park Service "wholly incompatible" statement was made in the Section 213 Report over a year before. It had not been retracted, but since then the word from the administration got the NPS and the GSA back to the table and moved the project planning forward.
- The use of the phrase “after all the tearing down and building up and paving over are done” diminished the GSA's plans to save sixty-two buildings and

¹²⁷ Nothing more on this Metro Green Line change has been heard on this for some time, and recent articles make no mention of it even as billions are being spent on other parts of the subway system.

¹²⁸ *A Disaster for St. Elizabeths*. Moe, Richard, President HTHP. Editorial. *Washington Post*. 08Jan2009.

require the removal of only eight structures, six of them being already listed as non-contributing (leaving two which were of actual concern). It also diminishes the fact that the NTHP had signed onto a consensus agreement with a number of consulting parties in 2007 where, independent of the GSA, they had agreed to the destruction of these buildings.

- The paving itself was slated in the main to conform to existing Olmsted-era plans, and parking garages at St. Es were being redesigned to an even deeper subterranean style with green roof and wall features. A huge amount of parking had been moved off of the West Campus into the East campus in the planning change for housing FEMA.
- The no-access issue had been a historic fact on that campus throughout its lifetime, and was not going to be resolved with any conceivable federal tenant (blast security had become standard on federal buildings of many descriptions after September 11, 2001, and having a campus security perimeter was going to be cheaper, more effective, and less invasive to the historic fabric than any other method). By moving to a campus approach at St. Es, improvements in the streetscape in DC was going to be the result as secure federal tenants left downtown. A great deal of security-focused concern had been expressed about allowing the public a sweeping view of downtown DC and the Bolling Green Air Force base where executive branch aircraft were housed, and maintaining a 'security-focused' tenant on the site was an important criteria.
- Even though the space needs of DHS would not be fully met at St. Es, they already possessed an additional campus site (The Nebraska Avenue Complex),

and that was going to be used to help keep less-critical functions off of the St. Es campus. The NTHP president had even previously stated on June 4, 2007: “We recognize that GSA has explored every reasonable alternative and we appreciate that.”¹²⁹

- The claim of a lost “once-in-a-lifetime opportunity to spark revitalization” for the neighborhood ignored the idea that many employees who were to be relocated to work spaces at St. Es would probably decide to live near there. As a matter of fact, by 2012 developers were already moving to fulfill that prospective need. Many amenities have begun to spring up in the neighborhood since construction began.
- In saying that “a unique urban asset would be wasted” instead of “destroyed,” the NTHP leaves the door to the future cracked open. Every urban resource is not open to the public. For example, you can't wander the grounds of the White House or the Pentagon at will, without an escort. By saying “asset... wasted,” instead of utilizing stronger terms such as “irreplaceable cultural resource... destroyed,” the NTHP has essentially acquiesced to the project, acknowledging a begrudging acceptance of the fate of the property being brought into the twenty-first century.

However, most importantly, by sending this letter as the PA was being considered by the NCPC (and after the NEPA and FHA determinations), the NTHP made it clear that it was reserving its right to bring GSA and DHS to court if they did not follow through with their commitments. The GSA knows that it must continue to seek the input of the

¹²⁹ Meeting synopsis, 04Jun2007, GSA, NTHP and ACHP attending.

consulting parties throughout the remainder of the undertaking and fulfill its legislated requirements. On the other side, the letter also keeps the project in the public eye, so the GSA reaps the benefit of being able to continue recording a high level of external involvement in the process.

It Takes A Village

The preservation professionals at the GSA's National Capital Region and the Public Buildings Service's Center for Historic Buildings were formidable during the St. Elizabeths project. If we look at previous interview comments, it is evident that the preferred strategy of the DHS at one time was to flatten the site and build new. On the other side of the table, the consulting parties expressed a “save everything” attitude. Without that “save everything” counter-balancing view of the parties who were lobbying on the side of preservation at St. Elizabeths, the pendulum would have swung significantly in the other direction, and the impact on the historic cultural resources at St. Elizabeths certainly would've been greater.

The value that is inherent in all of us as preservation professionals is understood, it is recognized, we get it. But our nation as a whole does not. I think that goes back to why it was not originally a priority in New York at the African Burial Ground and it wasn't a priority at St. Es. It's because we don't start from the same point as other countries, where they wouldn't even consider destroying a historic property. In our world, newer is still better... until the work gets done and we see the result.¹³⁰

The comments of the GSA preservation personnel seem to show a genuine appreciation for the participation of these consulting parties. The participation of these organizations, groups, agencies and individuals externally held the back the

¹³⁰ Interview comments, Joan Brierton, GSA, PCAB, 09Jan2013.

more radical demands of the client (DHS), and tempered some of the political pressure that was brought to bear on the project. They gave the GSA, and its subcontractors completing work on surveys and plans, time to do more thorough and complete investigations, and to consider multiple alternatives that would not have been possible during a truly fast-track project. They voiced a concern for the property that helped keep it as intact as possible, and in this way the project was truly a collaborative design effort. As Beth Savage, GSA FPO said about the preservation of St. Es: “It's not to use a trite phrase, but, it takes a village.”¹³¹

Preservation at GSA: The Very Well-Versed and Politically-Connected 800-Pound Gorilla.

Can negotiating with the GSA be a futile gesture, like a High School squad playing against an NFL team? Certainly not, but the GSA does have the resources to move projects forward when they follow the right steps. In the years since the Winder and ABG projects, the GSA had become extremely adept at politics, public relations, and has acquired a detailed knowledge for the requirements of the various reporting agencies. The CHB arguably has as much experience working inside the system as any SHPO. It also has more staff than many SHPO offices, and has the experience of working with dozens of SHPOs. Historic preservation is more than hiring architects to deal with materials and authenticity concerns. It includes getting specialists on the payroll who can deal with a hefty helping of regulation and negotiation. The GSA had the ability to hire-in or out-source talent that had previously worked at the offices

¹³¹ Beth Savage, GSA FPO Interview, 20Nov2012.

of the various consulting parties, allowing an understanding that led to widening the scope of the preservation portion of the consultation, making possible maximal benefits to the interested parties.

As a huge real estate management firm with the budget needed to produce results, the GSA has the ability to hire whatever talent it needs, giving it an implicit advantage over other participants in the process. By working closely with multiple regulations and regulators, setting the precedents, working with a larger team, and understanding the viewpoints of the consulting parties from the inside. The GSA had in some ways become preservation's 800-pound gorilla. The point, of course, is that we want to see the powers of our federal government “used only for good, not for evil,” but as with many terms, their definition depends on one's viewpoint.

It can be understood why the GSA created this specialized preservation group, from which it drew some of the personnel with the sole purpose of dealing with St.

Elizabets and getting a programmatic agreement in place. This was a significant project, an administration priority. Those associated with this group included GSA employees with decades of experience working in the Washington DC preservation community. As previously mentioned, one person had spent two decades at the National Park Service, specifically in the office of the Keeper of the Records.¹³²

Another had over two decades at the GSA after a stint working at the DC Preservation League.¹³³ A third person previously worked for the NCPC, CFA and the DCSHPO.¹³⁴

¹³² Beth Savage, GSA CHB FPO.

¹³³ Joan M. Brierton, GSA CHB.

¹³⁴ Nancy Witherell, GSA NCR RHPO.

A fourth had been the NTHP's Senior Architect who, after 21 years at that organization, left to work at GSA's Center For Historic Buildings.¹³⁵

At the GSA, four out of the ten preservationists working in the Center For Historic Buildings have a degree in architecture, the rest have historic preservation degrees, and as a group they have a track record that could enhance any project. As we see in the example of St. Elizabeths, preservationists became the lead individuals in documentation, research, development of the site plans, and negotiation of the Programmatic Agreement. Without all of this, a National Historic Landmark property might not have been much worse off, and could have continued to decay until its condition was so compromised that there was nothing left that would've been economically feasible to preserve.

DHS, the Tiger by the Tail

As difficult as the negotiations were with the consulting parties, they were equally so with the client. The DHS had manpower and budgeting many orders of magnitude greater than the GSA. The fate of its desired \$3.6 billion campus at St. Es was being held in the hands of a couple of dozen staffers at the GSA, in a process that the DHS was very much at odds with. The DHS staff and administration saw a campus that it wanted to move into in two or three years turn into a process that did not even break ground for nearly five years. DHS saw the release of the draft EIS document and section 213 reports that were seemingly designed to skewer the possibility of moving

¹³⁵ George Siekkinen, AIA, GSA CHB www.linkedin.com/pub/george-siekkinen/11/38/811 Last Accessed 05Jan2012.

into St. Es, and it appears to have disagreed with the GSA's policy of openness. The GSA, however, was on point with the political and professional wherewithal to insure compliance and carry the work through to completion. In addition, it is important to note that there were those in Washington who felt that if they could push the St. Es project to failure, that it could have been an impetus for DHS to have been broken up into a few, smaller parts. Those forces are still at work today.¹³⁶

PBS As the Circus Ringleader

Having the consulting parties at the table from the start is the way to get done what you want to get done, not by excluding them and figuring that you'll clean up the mess later. The project got off to a rough start, with missteps that would have been difficult to recover from without a seasoned preservation staff on hand with significant negotiation and mediation skills. PBS staff were pivotal in bringing the project back from the brink after those missteps were made, and in making sure the information in the Draft EIS and Section 213 Report were released without a possible client-desired rewrite.

The following question was asked of each preservation professional who was interviewed: *“Would St. Elizabeths have survived this process intact had it not been a National Historic Landmark, and had instead been 'merely' listed on the National Register?”* The response was an emphatic “No.” Those responses were immediate and without hesitation. The import of the NHL status of the site truly echoed

¹³⁶ O'Connell, Jonathan . *Washington Post*, March 30, 2012. *St. Elizabeths renovation as security campus faces resistance*. http://articles.washingtonpost.com/2012-03-30/business/35446682_1_homeland-securitysecurity-campus-project Last accessed 05Mar2013.

throughout the process. In the exact opposite of the planning for the Winder and ABG sites, preservation at the GSA was at the forefront of the project planning at St.

Elizabets. However, it was not inexpensive in many ways, and in some cases it took pure politics to get things done. Beth Savage, GSA FPO said about the project:¹³⁷

I think there was a critical point, when we're talking about keys to it, the project would not have happened without the influence of John Nau from Texas [Chair of ACHP]. The political pressure kept pushing it up to the secretary level, and we were told that this was an administrative priority and we needed to get this done. It took very high level communication and support. Once we signed the PA and then got the master plan, I thanked him. It would not have happened without his personal and professional vision, and his power. I still can't believe that it actually happened.

The Legacy of the St. Elizabeths Process

"St. Elizabeths is a dinosaur" is the way it was put in November 2012 by Nancy Witherell, GSA National Capital Region Regional Historic Preservation Officer, who was working at the National Capital Planning Commission during the first few years of the St. Es process.¹³⁸ When undertaking this large a project, the GSA really knew it had to go above and beyond, but nobody expected a four-year process between acquisition and a signed Programmatic Agreement, several Congressional budget delays, and another two years to start real construction on the site. Nobody expected the distraction of congressional members accusing DHS of budgetary incompetence. When St. Es was passed to the GSA in December 2004 nobody expected the tens of thousands of man-hours that eventually were put into the minimization and design phases. Is there the continued political will to pour into extended preservation

¹³⁷ Beth Savage, GSA FPO Interview, 20Nov2012.

¹³⁸ Nancy Witherell interview, 19Nov2012.

consultations? At St. Es it certainly went above and beyond the 40 days allotted on the schedule for historic preservation consultations.

The stress of negotiations ended in a politically-fueled, high-power race to the December 9, 2008 finish line to get the PA signed. The pressure on the members of the team, as you can imagine, was not insignificant. Beth Savage, GSA FPO stated:

I literally just walked into this place, a lot of bad water had passed under the bridge, the project was on what we are now referring to as 'pause and reflect,' ...on hiatus. They were doing an internal review of... 'What is St. Elizabeths', 'Where can we go', 'What's the risk with the NEPA', 'Whats the risk with 106', 'How can we progress this'. They were trying to make a decision on how to proceed and then [said]- "yes we can do this." But then they had nobody to do it over at NCR because they already chewed up and spit out the people who had valiantly tried to do the right thing.¹³⁹

A Cautionary Tale, Looking Toward The Future

This cautionary tale continues, with commentary that reflects on the unsure budgetary climate we live in today. Nancy Witherell states (emphasis added for clarity):

"We can't afford to throw the kitchen sink at it anymore.... we don't have money for mitigation... we do design and think smarter, but there is no money for even that anymore."¹⁴⁰

Could St. Elizabeths be one of the last massive consultative preservation projects, given the current federal financial difficulties? Because of funding, and because the GSA has been as much a lightning rod for federal preservation as it has worked to be seen as the gold standard, its role also highlights the failings of other Federal Agencies who never seems to show up in the limelight. Is this absence because the GSA is so

139 Beth Savage, GSA FPO Interview, 20Nov2012.

140 Nancy Witherell interview, 19Nov2012.

visibly involved in preservation, or is it because they are better at working the system and avoiding bad press? In other agencies, with the current budgetary situation the Federal government finds itself in, enforcement is not expected to increase.

In 2013 the St. Es project is entering its ninth year. The problem in executing the long-term vision of the project are the short-term vagaries of funding. There were two years within the time of this project (FY2006 and FY2007) when funding did not make it through the budgeting process. The money is literally there one day, and gone the next, and the budgeting process now closely resembles that seen at the mid-nineteenth century St. Elizabeths. Congress is so focused on a short-term approach to funding that its detrimental impact is being felt by projects across the country.

In 2012 parts of the St. Es undertaking were put on hold, again because of funding.

Beth Savage states (emphasis added for clarity):

The whole thing was supposed to be done in 2016, and here we are entering 2013, and we've got a little bit, and Congress of course has put the brakes on it. I don't think it was a surprise to most people. Yes it's a \$3.4 billion project, do we think we're going to get that any time in the near future? Someone's come up with the phrase [from the FDA project] "they're going to FDA us" which means they give you a big chunk up front to begin, get your master plans done, here's your first building, and then Ssssss... [descending whistle]. Economically, yes it's a huge amount of money [for the St. Es project], on the other hand when you look at the construction cost and how much it's escalating because of the parsing of all of that, it's going to be far more than \$3.4 billion.¹⁴¹

141 Beth Savage, GSA FPO Interview, 20Nov2012.

On January 2, 2013 the American Institute of Architects stated in press release regarding the last-minute agreement on January 1, 2013 to avoid the 'Fiscal Cliff' (emphasis added for clarity).¹⁴²

So, our nation has backed away from the Fiscal Cliff, but we're still much too close to it. The element of uncertainty left by this bruising political battle will plague our economy for months and years to come. And that will only delay economic recovery and impair the ability for business to grow, prosper and create jobs. This clearly is no way to run a government. Americans, and the membership of the AIA, are fed up with Congress' inability to work together in the best interests of the people of the United States.

It is time for Congress to set aside party differences and come up with viable and responsible solutions that will foster economic growth, reward individuals and firms for success, and provide incentives to reinvest in their businesses. By dedicating our efforts to focus on the issues instead of the politics, together we will be able to stay on the path of economic recovery.

Delays at St. Elizabeths have caused overall costs to increase by tens of millions of dollars. In the 2009 budget the St. Es undertaking received \$450M in stimulus funds as part of the American Recovery and Reinvestment Act (ARRA) to support the first phase of this redevelopment. Further funding followed, but in the budget battles that raged on an amount of uncertainty crept into the project's future.

December 2012: St. Elizabeths PA Update and Death By Funding Shortfall

In the annual project update dated December 20, 2012 to the ACHP from the NCR RHPO, Nancy Witherell, the impact of budget cuts is made painfully obvious:¹⁴³

¹⁴² Jacob, Mickey. FAIA, AIA President: http://www.archdaily.com/313731/aia-comments-on-fiscal-cliff-vote/?utm_source=ArchDaily+List&utm_campaign=123c5944de-RSS_EMAIL_CAMPAIGN&utm_medium=email Last Accessed 04Jan2012.

¹⁴³ 2012 Programmatic Agreement Report to ACHP. Nancy Witherell, GSA-NCR RHPO, dated 20Dec2012.

Due to the availability of funding, portions of phase 1 development have been placed on hold. It is anticipated that they will be completed during future phases. The following phase 1 elements, which have already gone through section 106 consultation and proceed design approval, are currently on hold:

- Gate 1 VIP staff screening facility
- Gate 2 visitor center
- Gate 3, tunnel infill
- Inner security fence between gates 1 and 3
- Building 37 Hitchcock Hall – Although completion of Hitchcock Hall is on hold, the building will be weather – tight and have an activated sprinkler and fire alarm system.
- Building 52 ice house
- Building 56 powerhouse
- Yellow brick paving behind building 40 and adjacent to the center building/bakery connector; the brick pavers were removed, stacked and stored for future installation
- Fountain in the courtyard between buildings 31 and 32
- Planting around building 31
- Paving path/apron around building 31
- Site work around building 52
- Stone cladding [numerous locations].

This recent document is a critical piece of the puzzle when coming to understand where this multi-billion-dollar project stands today. In none of the previous annual reports since the PA was signed in December 2008 was there any indication of project impact due to funding. From a construction project management standpoint, placing some of these tasks on hold in 2012 can be easily justified if they are not on the critical path. However some of the work listed, such as security fencing and the work on Hitchcock Hall, could eventually lead to the delayed opening of the nearly completed Coast Guard complex if funding is not found to complete them.

As work is delayed, reference to standard construction references, such as RS Means' online construction price calculator, gives us a close estimate of the financial cost of

holding a project hostage. On the other hand, some costs are not so easily calculable, and at St. Elizabeths (with preservation, design, construction, landscape, legal and political factors all at play simultaneously at all times), coming to a halt on one portion of the undertaking does not necessarily mean coming to a full stop on another. With highly diverse materials and skills needed on new construction portions of the project, and a different set of parameters at work on the preservation/adaptive reuse parts, scheduling issues can mean the loss of highly skilled individuals at all levels, not just architects and planners. Although the loss of a few brick masons may not slow most projects, if they are specially experienced preservation masons, the story can be quite different: people with these type of skills are not as easily replaceable as, say, glaziers who work with modern curtain-wall installations or steelworkers, or excavators. When a preservation project schedule is impacted in the early stages, it throws into question exactly who will be doing the work on the trade side of the projects' delayed time-line, and if there will be a problem filling that slot with experienced tradespeople due to previous commitments.

The government budget and financing system has become so mired down that it is affecting the very design process that was created to protect the nation's historic resources and save it money (and this includes several hundred million dollars in financial savings that were supposed to have been had at St. Elizabeths alone). Joan Brierton said:

It's only as good as the commitment is to see it through. What happens when these funding scenarios occur? No matter how stellar this building is, you now have a major client in a ghost town [St. Es], and you're not going to get any additional support for infrastructure. [However,] we

will complete the project, because the the PA says we will.¹⁴⁴

As funding is sought for other preservation projects in the federal stable, one has to wonder whether, if the GSA can't get the money to move forward with the rest of the Department of Homeland Security campus plan at St. Elizabeths, a high priority for the administration right there in the District of Columbia, what chance do other more far-flung projects have?

If Not DHS, Then Who? A “What If” Scenario.

As the undertaking at St. Es continues, the questions that were present at the start have arisen again. Shortly after DHS made its request for a new consolidated site, the Federal Bureau of Investigation also approached the GSA about finding space for a new headquarters campus. The FBI could have been accommodated easily at St. Elizabeths, and it would've provided this sensitive site with a secure, long-term, federal tenant. It also would have kept the FBI inside the District of Columbia, while still providing the development for the Anacostia neighborhood desired by congressperson Eleanor Holmes Norton.

By broadening the original time-line and placing the FBI at St. Elizabeths, a case could have been made for placing DHS elsewhere, such as WRAMC. However, now in 2012 significant development at Walter Reed Army Medical Center has taken the best alternative out of contention. Revisiting the possibility of a land-swap for DHS space at the AFRH would also have preserved St. Es for another purpose.

¹⁴⁴ Interview comments, Joan Brierton, GSA, PCAB, 09JAN2013.

Constructing a brand new Coast Guard facility across the Anacostia River at Buzzards Point (instead of St. Elizabeths) would have been excellent for neighborhood renewal.¹⁴⁵

Unfortunately, a significant amount of financial and political capital has been expended on the St. Elizabeths process, and making a sudden reversal at this point beyond belief. These examples are only possible if we are convinced that long-term inaction will not lead to the additional loss of historic cultural resources.

There are several examples where the GSA has, for example, held historic courthouses for future development opportunities for several reasons, some of which are to protect their historic fabric into the future. The optics of this retention of property plays out in today's financial climate as waste, where anything unused needs to be liquidated to generate capital, which presumably (in the public's mind) is used to pay down the national debt, or reduce the budget deficit.¹⁴⁶

At this point in time it would be politically difficult for the GSA to reverse strategy on the siting of DHS to the St. Elizabeths campus. The new Coast Guard building will be ready for occupation in August 2013, only a few months from now. Additional federal

145 This location, with a line of sight directly across from Bolling Air Force Base and St. Elizabeths, might have been possible, however, it also has been given up for commercial development. Now a soccer stadium for DC Football United is being proposed for the site.

146 For example, to a congressional fact-finding committee, the Spanish colonial-revival David W. Dyer Courthouse in Miami (vacant since 2008) is seen as a five or six- million dollar asset to be liquidated: however, the GSA knew (and the politicians did not) that it will cost any developer twice the building's worth to do abatement and utility work severing it from other federal properties nearby (therefore making it virtually unsellable to a commercial developer), or more likely, the GSA would have to spend \$10-12m just to get it to a point where a developer will be willing to take it on. However, the optics remain, and so provide an easy target in the sound bite news-world we live in.

agency offices throughout Washington are awaiting relocation in the next few years to federally owned sites so as to reduce commercial leasing costs (totaling tens of millions of GSF): the GSA needs to fulfill these requests in parallel with new development possibilities for the DHS.

After the Smoke Began to Clear... A Reconciliation?

In 2010, two years after the St. Elizabeths PA was finally signed, the NTHP published its three-part report “Section 106: Back to Basics.” In it they state (emphasis added):¹⁴⁷

... when Section 106 is not applied properly, [federal] agencies lose critical opportunities to avoid harming historic properties, and the results can be devastating for communities that value their heritage. All too often, this happens because the Section 106 consultation process is poorly integrated into federal agency planning, and is carried out too late to allow project plans to be changed. However, in some cases, federal agencies ignore their responsibilities altogether.

In recent years, the National Trust for Historic Preservation has become increasingly concerned about whether federal agencies are fully complying with the consultation obligations of Section 106. While the statutory and regulatory framework of Section 106 remains sound, actual implementation of this important preservation tool suffers in several key respects. First, ... many federal agencies recognize their responsibilities and ensure that their paperwork is managed well, but tend to apply their obligations in a “rote” manner that gives little serious consideration to planning to avoid or minimize harm to historic places. Second, other federal agencies “do not often understand, or give only perfunctory attention to, their compliance responsibilities” under Section 106.

For a number of years, GSA dominated the Advisory Council’s Reports to the President and Congress of the United States in terms of wilful noncompliance or, at best, dilatory compliance.

¹⁴⁷ Barras, Leslie E. *Section 106 of the National Historic Preservation Act: BACK TO BASICS*. Washington DC. National Trust For Historic Preservation. 2010.. Technical section, p.47.

... Today, however, GSA is widely recognized (and was cited by many SHPO staff interviewees for this report) as exemplary in its planning to protect and maintain historic properties. A recent report on the national historic preservation program identified GSA as setting “the gold standard” in its “sophistication and commitment” to preservation through staffing and planning.

This is quite a change in tone from NTHP written communications with the GSA between 2005 and 2009. Although portions of the report call out the GSA for past actions, it also seems to aim at smoothing relations. The GSA had seen an awful lot of 'the stick' of late, and it was time to show a metaphorical 'carrot' to counterbalance it. It is interesting to note that nowhere in this several hundred page document is there any direct reference to the St. Elizabeths undertaking that so consumed the National Trust less than two years before (and was still continuing at the time of its publication). The GSA was being encouraged to stay on track, not only with St. Es, but with all its projects.

Buried in this document is also a statement that bears special consideration:

Consultation... is not “simply providing information” or sending paperwork to consulting parties and asking for written comments in response.¹⁴⁸

As covered in Peggy Robin's “Saving the Neighborhood,” the public needs to be involved in the consultation process in order for it to truly be a public process. Simply shuffling papers and posting notices does not cover the responsibilities placed upon the government, whether federal, state or local, by Sections 106 and 110. If the public is not involved at the earliest stages of the project, their possible involvement in later

148 Ibid., p.37.

stages will be compromised, if it happens at all. Consultation also includes work between agencies and between departments inside agencies, when a policy, real estate, or planning group of an agency begins to look a project, the designated historic preservation officer and their staff need to be involved from day one. The problem comes when planning is well along in the process before the historic preservation planning professionals are brought in on a project or undertaking, and significant amounts of work are rendered invalid because no one thought to consult the preservationists.

At the personal level of staff relations, there was great appreciation at the NTHP for the work done by the GSA Center for Historic Buildings staff on the project, and an understanding of the extremely difficult position that they had been placed in. One result of this realization may have been, at the 2012 NTHP Conference, the GSA Center for Historic Buildings was presented with a special award for exceptional stewardship.¹⁴⁹

Moving Forward after St. Es.

Preservation does not speak with a monochromatic voice. If we must come to grips with the reality of today's financial constraints, perhaps we need to revisit the parts of the NHPA and the Secretary of Interior's Standards that talk about "if an object is significant," and "if it is worthy of preservation." It's very easy to criticize from the outside, to say "I never would have been able to sleep at night had I worked there."

¹⁴⁹ Unfortunately, due to budgetary constraints and issues relating to GSA problems that came to light in April 2012, no staff members from the GSA CPB were able to attend the conference to accept the award. Instead, the local GSA RHPO accepted the award on their behalf.

The multidisciplinary nature of the preservation field is both a blessing and a curse, and can be viewed as a weakness by those on the outside who look for solidarity and unity.

When considering documenting a site with Cultural Landscape Reports, BPP's, HSR's, etc, and creating a masterplan, all this needs to be written for the site, not the project. The reason is that a site will always be there, but it could change purpose in a few years, and a baseline series of documents is needed to begin to consider the alternatives. You might not think a site is significant now, but in fifteen or twenty years, that could change.

St. Elizabeths EAST Campus & A Lack of Preservation Interest: The Sad Truth

In 1987 the federal government transferred St. Elizabeths' 118-acre east campus to the District of Columbia. The west campus remained federal property under the auspices of HHS, although the District was given permission to use the buildings on the west campus in return for being responsible for the protection and maintenance of the entire site and grounds. As the DC Department of Mental Health took charge of the site. The city was required to develop a plan for the entire 356-acre site (both East and West campuses) for submission to Congress. This plan was never accepted as completed, and so in 2006 the district prepared a proposal only for the East campus that included 2 million plus square feet of new office buildings, new commercial development, and new high-end apartments.

When this submittal came forward, the general governmental and consulting party response was, in comparison to the West campus, one of disinterest. The time spent on this project by the consulting parties was not one percent of the time that they spent on participating in the process at the GSA-operated side of the campus. There were a-half-dozen poorly-publicized public meetings that few bothered to attend, so that the Master Plan was signed and stamped. This, in spite of the fact that:

- The size of the St. Elizabeths Historic District is distributed evenly between the East and West campuses, and the effort should have been similar.
- The two parts were in use for roughly the same period of time in history, either in psychiatric care or in a support function before that.
- Each side included a similar number of potentially historic buildings and both sides were included in the St. Elizabeths Historic District.
- The proposed development is massive in scale, overpowering the East campus site with new construction of a height and style that dwarfs the original structures and landscape.

The differences were:

- The East campus is owned by the District of Columbia, a financially-strapped entity.
- The East campus was being opened up for “a ripe commercial development opportunity.”¹⁵⁰
- The GSA, over on the West campus, is a federal agency, and to put it in the local parlance, 'everyone knows they have deep pockets.'

¹⁵⁰ Details and renderings of the development can be seen at <http://www.stelizabethseast.com/development-overview/> Last accessed 18Jan2013.

This is a case of truth being stranger than fiction. When compared to the effort they expended on the GSA-run St. Es West project, the consulting parties essentially failed to show up. The comparative speed at which this development passed the hurdles is an embarrassment on so many levels: professional (as a preservationist), financial (as a citizen), and societal (business wins!). It has been suggested that “maybe they were just burned out” by the St. Es West process that had been going on, to that point, for eight years.

CHAPTER ELEVEN

Conclusion: Lessons Learned -

How Can We Better Prepare For Future Preservation Challenges?



Illustration 14: St. Elizabeths NHL, US Coast Guard HQ building under construction. The historic Center building is at the at the extreme left edge of frame. Source: USCG photo

In this concluding chapter, we ask how we can prepare for the new reality of “compliance” focused federal preservation. Can cultural resources still be properly protected in this time of budgetary constraints, and what will it take to do so?

As “well-meaning” as the GSA was in undertaking the St. Elizabeths project, without the input of the consulting parties the outcome would have had a much different. Still, at the NTHP, Deputy General Counsel Elizabeth Merritt and Field Director Rob Nieweg attributed “ninety-five to ninety-eight percent” of the preservation success at St. Es to the GSA preservation staff working at PBS.¹⁵¹

The disagreements between governmental agencies involved and the inter-departmental pressures within the GSA was mostly held in balance by a strict interpretation of the law, actions of the public and private consulting parties, and an acute awareness of public opinion. As we have seen, the knowledge of how damaging and time-consuming a lawsuit could be (had the GSA not made a “reasonable and good faith” effort to fulfill the intent of the NEPA and NHPA processes) kept things moving briskly with an attentiveness to 'compliance' with historic preservation concerns. The example of St. Elizabeths shows that training in preservation law will be even more vital in the future if we are to protect cultural resources at the federal level.

When we consider a project, a better end-product can be had through through planning and design. We can involve the public more. We can have more flexibility by hiring qualified organizations and individuals in all areas of a project: not just preservation professionals, but engineers, architects, landscape architects, mechanical contractors, security consultants, and more who have worked on vital cultural heritage projects in the past. By utilizing these kinds of firms with more experience, we end up

¹⁵¹ Elizabeth Merritt & Rob Nieweg interview comments, 21Feb2013

with better bridging documents. These documents leave less to fall between the cracks of the various disciplines, and over time, we end up with a more robust consultation overall, making by-in from the concerned parties easier and more rewarding to everyone because the final product is better through public participation in all aspects of the project design.

To do all this we have to explain the preservation field to the other professions. People need to be shown how to go through the process, not just around the one problem they are viewing at that moment, to see each opportunity as a continuum across all projects. Preservation practitioners need to be trained to negotiate, and be prepared for daily interactions with their peers in other professions. New practitioners need to learn these things because, as I have found through interviews, at least 50% of their daily workload could be engaging in negotiations.¹⁵²

Preservation professionals need to be skilled in creating value and forming consensus around the issues on projects, and they need to understand politics and its use in the determination of a project's import. The most seasoned and well-respected professionals have held seats on many sides of negotiating table during their career, and it is obvious from my interviews that this is a critical element for project success.

Funding continues to be a significant concern on the St. Elizabeths project, as it has since its founding. This is one of the reasons that the site has so many small to

¹⁵² Interviews with every advanced professional I talked to put their workload being 50% or greater engaging in negotiation.

medium size buildings: because appropriations are fickle, and money would have to be spent completely before a new fiscal year arrived. One way around this was to build structures near each other, and then create a connector section between them when funds did become available. This does account for some of the strange layout of buildings on the St. Es site, and since sometimes the funding did not appear, this meant that some buildings just never got connected.

The approach to work at St. Es today is similar. After the USCG building, the intent is to build several medium-sized buildings, and to connect them with the historic buildings by utilizing enclosed passageways. At any point when funding is not available, construction can stop, and then restart later. Of course, the historic structures on site have been stabilized, but certainly not restored yet. One has to wonder how many years of budget cuts can they survive? The Federal Antideficiency Act looms large when Beth Savage says: “How do we keep our promises when they cut the money... who's left to speak for the buildings?”¹⁵³

The St. Es project also reveals an interesting pattern: some of the most financially successful preservation professionals will be part of the earliest stage of a project (like archaeologists, Historic Structures Report writers, and Master Plan creators). These professionals will do their work, get their payment, and get on to the next project. Being in the later stages of a project are perilous indeed, because mitigation and late-stage documentation funding is usually part of the construction part of the budgeting. When the construction of the building is done, the funds are gone. This means that the

¹⁵³ Beth Savage interview, 20Nov2012.

money for historic interpretive signage, reports such as Historic Building Preservation Plans (BPPs), and production of books or pamphlets that are supposed to be part of the mitigation strategy, might not happen on a project. By the same token, presentation of archaeological findings should be made as early as possible to prevent funding from being suspended, with artifacts and research then boxed up and possibly forgotten or lost. When these late-term project funding failures occur, the mitigative measures are left essentially incomplete, and we all suffer from that lack of closure.

At this point it is uncertain if there ever will be funding to finish all the designed-in minimization and mitigation at the St. Es undertaking, because the GSA has been significantly impacted by the financial pinch of the times. Its budget for construction and renovation were cut from \$1.3 billion to \$362 million in 2011, and in 2012 the House Appropriations Committee provided no money for construction and renovation, (and only \$280 million for GSA building repairs nationwide). The federal building fund was cut from \$9.1 billion in 2010 to \$7.6 billion in 2011. Legislation passed by the House in 2012 cut it still further, to \$7.2 billion, the lowest level since 2007. All of this was before the GSA Western Region Conference scandal that broke in March 2012, and it doesn't take a lot to imagine the impact that has had, and will have in the future.

Regarding St. Elizabeths, work continues to this day, and will do so for the next several years (the current time-line estimates that the project may take fifteen years, even though optimistic reports early in the project hoped for less than five). The new Coast Guard headquarters nears completion, and the work on five historic buildings

that I saw being repurposed in August 2012 was moving forward with sensitivity for the fabric of the structures and the integrity of the site.

The term 'compliance' needs to be better understood by all parties concerned, in the Federal service. Compliance can mean meeting the minimum standard, but it can also mean exerting the amount of effort needed to fulfill the mandate for protection of cultural resources. The GSA is the most obvious target the Federal government has, given recent history, and the preservation professionals at CHB help keep the lawyers at bay by insuring that compliance. In contrast, however, the US Postal Service is almost notorious in its failure to list their buildings as potentially eligible. The State Department has, as far as I can tell, apparently never listed a single one of its hundreds of overseas missions on the National Register on its own. By always looking to the GSA, the agency that drew attention in cases such as the Winder Complex and the African Burial Ground, are we being distracted? With the GSA now setting the standards for compliance as they go, re-defining them for the rest of the federal government on a project-by-project basis, are we missing the point: Is anyone else at the federal level (other than the Department of Interior) actually expending the legally required resources necessary to comply with the NHPA?

Now that the GSA has successfully threaded the metaphorical camel of 'compliance' through the eye of the needle of 'consultation' at St. Elizabeths, do government agencies now possess a formula which can be applied toward any project, anytime, anywhere? In time, society will realize that historic resources are being irretrievably lost due to short-sighted, politically-motivated, budgeting issues, when it becomes

apparent that what comes out the other side of the needle little resembles what went in the first. Unfortunately, this realization will be too late to save many sites already irretrievably lost. The decisions made and the planning undertaken for the St. Es project will have ramifications far beyond Anacostia and the District of Columbia, and we will be living with the effects of this ongoing construction project for decades to come.

APPENDIX A

http://www.leagle.com/xmlResult.aspx?xmlDoc=19751595401FSupp1194_11422.xml&docbase=CSLWAR1-1950-1985

DON'T TEAR IT DOWN, INC. v. GENERAL SERVICES ADMIN.

401 F.Supp. 1194 (1975)

DON'T TEAR IT DOWN, INC., et al., Plaintiffs,

v.

GENERAL SERVICES ADMINISTRATION et al., Defendants.

Civ. A. No. 74-381.

United States District Court, District of Columbia.

April 23, 1975.

Thomas D. Nurmi, Patrick F. J. Macrory, David Bonderman, Washington, D. C., for plaintiffs.

Robert Werdig, Asst. U. S. Atty., Washington, D. C., for defendants.

MEMORANDUM-ORDER

GASCH, District Judge.

This case is before the Court on defendants' motion to dismiss on grounds of mootness. The Court thinks it well to set forth the facts and circumstances giving rise to the present posture of the case.

I. Legal Background.

The National Historic Preservation Act of 1966¹ provides that any Federal project shall be begun only after taking into account the effect of such project on any property, site, structure or object which is listed on the National Register of Historic Places. The statute also provides that the Advisory Council on Historic Preservation shall be afforded the opportunity of commenting on such projects.² Executive Order No. 11593³ also provides that the Advisory Council shall have an opportunity to comment on such a project.⁴

The Advisory Council on Historic Preservation ("Council") has promulgated regulations setting forth the procedures for obtaining its comments. In general these regulations provide that the agency in charge of a proposed project must determine whether the project will affect a Register property. If such agency finds that the project adversely affects a Register property (or if the Director of the Council timely objects

to a determination of no adverse effect), an elaborate consultation process must be complied with. This process includes an on-site inspection by agency head and Council Director, a meeting on the matter open to the public, and an opportunity for the Council to suggest alternative plans.

II. Facts.

This case began, ironically enough, on Constitution Day of 1973.⁵ On that day the General Services Administration (GSA) advised the Council that it intended to construct a new building for the Federal Home Loan Bank Board (FHLBB) in the 1700 block of G Street, N. W., in Washington, D. C.

The buildings in question here are four. The first of these is the Winder Building, built in 1857,⁶ which was the site of part of the War Department during the Civil War and from which the search for the Lincoln conspirators was directed. The Winder Building was listed on the Register. The second was the Winder Annex which was, as its name implies, an integral part of the Winder Building. Third was the Riggs Bank Building, erected in the 1920's, whose imposing facade was regarded as an excellent example of the architecture of those days. Finally, there was the building occupied by the Nichols Cafe, a fine Federal townhouse from the early 19th Century (one of the few specimens of that style in the downtown area). In its letter of September 17, 1973, GSA stated that it would "determine the relationship" of the new building to the old ones.⁷ Since it is a well-known physical law that two objects cannot occupy a given space simultaneously, the "relationship" in question would appear to have been clearly adversary.

On January 7, 1974, another communication issued from GSA to the Council. GSA found that the new building would have something of a detrimental effect on the Riggs Bank Building (total demolition) but that the Winder Building would be positively affected. The "positive effect" would be encirclement of the Winder Building by the FHLBB edifice. On January 31, 1974, it entered a contract for the demolition of the various buildings concerned.⁸

On February 5, 1974, the Council wrote GSA concerning the Riggs Bank Building, the Winder Annex and the Nichols Cafe, pointing out that all three buildings might be eligible for inclusion on the Register (and thus bringing into play the provisions of Executive Order No. 11593, *supra*). GSA adopted the useful expedient of ignoring this letter. On February 8, 1974, therefore, the Council sent a telecon message to GSA which reiterated the views expressed in the letter of February 5. The telecon also pointed out that the contract of January 31, 1974, appeared to be a clear violation of the law. GSA ignored this message also.

Undeterred, the Council then communicated the entire problem to an appropriate

official of the Department of the Interior and itself requested Interior to determine the eligibility of the three buildings for inclusion on the Register. On the next day (February 14, 1974) the Council informed GSA of its action — again without response. On February 20, 1974, Interior determined that the buildings were eligible for the Register and so informed GSA and the Council. On February 22, 1974, the Council itself informed GSA of the decision by Interior and stated that the Council looked forward to the undertaking of the legally required procedures of consultation.

On February 27, 1974, GSA did respond. By letter of that date it advised that it had re-evaluated its proposal in light of the determination by Interior and that it had decided to demolish the three buildings. This judgment was accomplished only seven days after notification of Interior's decision, thus showing how expeditiously the "Government's Housekeeping Agency" can weigh the

most delicate of artistic and historical factors. GSA did, however, indicate its willingness to continue in the consultation process (leading to a decision which it had apparently already made). On the same day, GSA representatives met with those of the Council.

At that meeting, the Council informed GSA that there had been no acceptable agreement regarding minimization of adverse impact on the buildings in question. GSA apparently agreed that it would undertake no demolition of the buildings until after submission of the matter to a full Council meeting on May 1-2, 1974. This agreement was set forth in a letter from the Council to GSA, dated March 1, 1974.

Meanwhile, on February 26, 1974, an attorney for plaintiffs herein contacted GSA and expressed plaintiffs' concern over the matter. Plaintiffs, through counsel, stated that they would file a law suit against GSA if the agency intended to continue demolition before completion of the consultation procedures. An official of GSA advised plaintiffs' counsel that GSA would not demolish the buildings until completion of the consultation procedures. Ominously, however, a news release on March 1, 1974, from GSA, stated that the agency would continue to clear the site in question.

On March 1, 1974, then, there was some confusion regarding the position of GSA. On Sunday, March 3, 1974, uncertainty terminated. GSA clarified the issue by execution of a classic Sunday sneak attack. It sent in the wreckers.⁹ Before any action could be taken, the Nichols Cafe was obliterated, the Riggs Bank demolished (save only for its facade) and the Annex roof pierced. On Monday, March 4, 1974, this Court granted a temporary restraining order to halt demolition until the Court could act on the question of a preliminary injunction.¹⁰

There followed a number of orders,¹¹ the intent of which was to give the parties an

opportunity to comply with the relevant consultation procedures. The result was that a special meeting of the Advisory Council was set for April 2 and 3, 1974. The first day's meeting was to be a public session while the second day's was to be an executive session, closed to the public. This scheme, of course, would seem to violate the requirement that the meetings be public. 36 C.F.R. § 800(5)(c).

The first day's meeting went off without difficulty. On April 3, 1974, Mr. Sampson expressed his view that the Council staff members were misleading and misusing the Council to gain their own objectives.¹² Sampson warned that these machinations by the staff were undermining the Council's credibility and "clout."¹³ He stated that he had previously consulted with persons (on various official bodies) who had far more expertise than the Council staff and these persons had agreed with the GSA decision.¹⁴ Sampson then continued:

"At this point you may wonder why I did not attempt to call a meeting of the Council, or meet with Council staff, or Secretary Morton, or somebody — before ordering demolition."¹⁵

Indeed, the Court itself has often so wondered. It need not have done so. The answer, said Mr. Sampson, was "simple." It was the staff again. The staff, according to Sampson, was intransigent, inflexible and had "the power to control and/or influence the Council."¹⁶ Further consultation, thought Sampson, would be futile. The legal requirements were thus not deemed necessary and demolition began. The "simple" explanation, then, reduced itself to a statement that Sampson believed that the Council (of which he was a member) was under the misguided tutelage of its own staff and the staff would never agree with Sampson's views. Therefore, further consultation was vain and would not be carried on despite the legal mandates. In other words, Mr. Sampson was the dealer and the game was dealer's choice.

While perhaps not expressed with the purity of a classical syllogism, this logic was probably not without effect. In any event, the Council issued its comments on the next day, April 4, 1974.¹⁷ To the astonishment of all defendants, the plaintiffs were not happy with this exercise in participatory decision making. On April 9, 1974, plaintiffs returned to Court seeking leave to amend their complaint. On April 11, 1974, they sought another temporary restraining order and a preliminary injunction, pointing out the fact that the Council meeting was not in accord with law.¹⁸ The defendants serenely filed a motion to dismiss on the ground that they had now done all that was required. Despite this eloquent argument, the Court granted the restraining order (April 11, 1974).

Also on April 11, 1974, the Court ordered the defendants to produce any tapes or transcripts which might exist of the April 3, 1974, Council meeting. Concerned that the Court had departed the path of right reason and was unduly concerned over trivial matters, defendants (on April 16, 1974) moved the Court to reconsider. The Court

denied this on the same day. This led to the revelation of Sampson's speech to the Council.

The Court then extended the restraining order by subsequent order (April 23, 1974) and by approved stipulation (April 26, 1974). Except for two orders permitting some necessary work to be done on the site, matters remained at rest until July 19, 1974, at which time the Court dissolved the restraining order but enjoined any work which would affect the integrity of the Riggs building until such time as the removal thereof had been agreed to by the Joint Committee on Landmarks, the Commission on Fine Arts and the National Capital Planning Commission.

The matter is now again before the Court on motion to dismiss. The agencies concerned have gone to great pains to revise the construction plans to save, where possible, the remaining buildings. The record now reflects GSA's regret for the precipitousness of its prior actions and acknowledges GSA's responsibilities, under the Historic Preservation Act, to consult with the Advisory Council. It notes the recent efforts of defendants to comply with the law. The case, say defendants, is moot.

CONCLUSIONS

A nation is an entity in many senses beside the political. Shared beliefs and experiences provide the flesh and sinew which cover and unite the bones of political organization. These common beliefs and experiences are nourished, sustained and, indeed, sometimes created by history. Historical knowledge, then, is the life's blood of a people. To cut it off is to assure the eventual disintegration of the political entity. Congress has wisely recognized this and has provided, in the statutes here involved, for a careful consideration of historical values before a project which may destroy those values is begun.

This is not to say, of course, that contemporary needs should be utterly subordinated to the remnants of the past. That would indeed be to crush the present under the detritus of antiquity. All that is required is that the Government agency concerned take into consideration the historical values which may be affected by any planned project. The Congress has provided a procedure whereby this may be done. The situation is not dissimilar to that existing under the National Environmental Policy Act of 1969, except that the values protected here are less tangible, if no less valuable, than environmental values.

It seems clear to the Court that the actions of GSA through April 3, 1974, were in contravention of the policies and procedures mandated by Congress. Since that time, GSA has conformed to the law, although such conformity may well have been dictated more by concern for this Court's coercive powers than by any general respect for law. It is not, therefore, without some hesitation — and even trepidation — that the Court

concludes that this case is moot and must be dismissed.

The plaintiffs sought an injunction prohibiting work until compliance with the consultation process, an injunction prohibiting Mr. Sampson from sitting on the Council on this matter, a declaratory judgment that GSA acted unlawfully herein and an injunction ordering GSA to comply, in the future, with the National Historic Preservation Act. All requisite permissions were obtained. It is undisputed that Mr. Sampson played no significant part in the Council's deliberations. There is no further need for a declaratory judgment. So far as the Court is aware, the conduct of GSA, although redolent of the "age of absolutism," has not been duplicated in any other instance relating to historic preservation. That it will be duplicated must be deemed speculative. GSA does not dispute the impropriety of its conduct, and, indeed, apologizes for it. The case is moot.

See *O'Shea v. Littleton*, 414 U.S. 488, 94 S.Ct. 669, 38 L.Ed.2d 674 (1974); *Laird v. Tatum*, 408 U.S. 1, 92 S.Ct. 2318, 33 L.Ed.2d 154 (1974); *United States v. W. T. Grant Co.*, 345 U.S. 629, 73 S.Ct. 894, 97 L.Ed. 1303 (1953); *Hinton v. Udall*, 124 U.S.App. D.C. 283, 364 F.2d 676 (1966); *Brandenfels v. Day*, 114 U.S.App.D.C. 374, 316 F.2d 375 (1963).

Accordingly, it is by the Court this 23rd day of April, 1975, ordered that the motion of defendants to dismiss this action be, and the same hereby is, granted and the said action is dismissed.

===

Footnotes

¹ 80 Stat. 915, 16 U.S.C. § 470f (1970).

² *Id.*

³ 36 Fed.Reg. 8921 (May 13, 1971).

⁴ The Executive Order also requires an agency head to refer any questionable actions to the Secretary of the Interior for an opinion regarding the property's eligibility for inclusion on the Register. *Id.* Where the Secretary of the Interior determines that the property should go on the Register, the referring agency must reconsider the entire project in light of this classification. *Id.*

⁵ September 17, 1973.

⁶ It is one of the few pre-Civil War office buildings left here.

⁷ The letter, however, made no mention of the Winder Annex or the Nichols Cafe.

⁸ This appears to have been a clear violation of 16 U.S.C. § 470f, since the Council had had no reasonable opportunity to comment on the project before approval of the expenditure of funds.

⁹ Mr. Sampson, Administrator of GSA, has stated elsewhere that demolition actually began on Friday, March 1, 1974. See Statement by Mr. A. F. Sampson before the Advisory Council on Historic Preservation on April 3, 1974 (copy on file in this case). It is a well-known principle, however, that a plaintiff's allegations must be taken as true for purposes of a motion to dismiss.

¹⁰ The temporary restraining order halted demolition until the case could be heard on March 12, 1974. It was later extended to March 13. On March 14, 1974, pursuant to the consent of all parties, the Court entered an order terminating all work (other than clearing rubble and the like) on the site until a hearing on the motion for a preliminary injunction which was set for March 23, 1974. On March 20, 1974, a similar consent order was entered providing that GSA would undertake no further work (with some exceptions) without giving five days notice thereof.

¹¹ See *supra*, note 10.

¹² See *supra*, note 9.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ The Council thus bettered GSA's own reaction time in the delicate judgmental task involved here. It may be that this was due to the Council's greater experience and expertise herein. It may be also that the Council's ability to call on one of its members, Mr. Sampson, who had also figured largely in GSA's decisions, speeded its deliberations.

¹⁸ GSA had given notice that it intended to resume demolition.

APPENDIX B

Landmarks of the St. Elizabeths Undertaking (to date)

- December 9, 2004: St. Es signed over by HHS to the GSA.
- January 14, 2005: GSA formally notifies the DCSHPO of the transfer of St. Es West campus property (this formally initiated the Section 110, 111 and 106 consultation for the GSA's Master Plan undertaking).
- January 24, 2005: The GSA formally notifies ACHP and NPS of the transfer of St. Es.
- January 14, 2005: The GSA announces a Pre-Proposal meeting for a Land Use Feasibility Analysis and Campus Master Plan for the West Campus of St. Elizabeths.
- January 25, 2005: The GSA St. Es Pre-Proposal meeting takes place.
- May 13, 2005: The GSA PBS issues a Certification of Need justifying the new design and construction of the USCG headquarters at St. Elizabeths.
- May 24, 2005: EOI solicitation deadline for firms for design of Coast Guard Master Plan.
- May 26, 2005: The DC Historic Preservation Review Board designates the St. Es historic district, including East and West campuses.
- June 7, 2005: GSA issues Notice of Intent (NOI) to prepare an EIS for St. Es West campus.
- June 14, 2005: Public Scoping Meeting, Master Plan for the Redevelopment of the St. Elizabeths West Campus.
- September 7, 2005: Meetings with consulting parties begin. (there were 22 of these meetings over the next several years).
- September 23, 2005: GSA presents plans for USCG to the OMB.
- October 11, 2005: Consulting party meeting.

- December 9, 2005: Washington Business Journal Real Estate section article on St. Es development.
- December 13, 2005: Consulting Party meeting.
- December 23, 2005: Announcement that DHS is coming to St. Es.
- January 30, 2006: RFP for USCG construction management services.
- February 14, 2006: Consulting party tour of St. Es.
- February 14, 2006: Consulting party meeting.
- March 1, 2006: GSA Commissioner Winstead goes before the House of Representatives Subcommittee on Coast guard & Maritime Transportation Committee on Transportation & Infrastructure.¹⁵⁴
- April 5, 2006: Anacostia community meeting hosted by Rep. Eleanor Holmes-Norton.
- April 12, 2006: Letter from NTHP Counsel to GSA referencing possible Section 106 procedural and intent violations.
- April 27, 2006: Consulting party tour of St. Es.
- May 25, 2006: DC Preservation League places St. Elizabeths campus on its list of most endangered places in DC. It renews it for 2007 (under “Historic Vistas”) and again in 2008.
- October 4, 2006: Public Law 109-295 (Department of Homeland Security Appropriations Act of 2007) passes in Congress.¹⁵⁵
- January 12, 2007: ACHP letter to NPS: Request for 213 Report.
- June 28, 2007: GSA issues a revised NOI to house DHS at St. Es in response to Public Law 109-295 (of October 4, 2006).

¹⁵⁴ Available at <http://www.gsa.gov/portal/content/102077> . Last accessed 18Jan2013.

¹⁵⁵ This document may be found at the GPO website: <http://www.gpo.gov/fdsys/pkg/PLAW-109publ295/pdf/PLAW-109publ295.pdf> Last accessed 19Jan2013.

- September 18, 2007: Public Meeting in Anacostia hosted by the GSA regarding the proposed St. Es undertaking.
- September 28, 2007: Draft EIS published.
- October 18, 2007: Draft EIS public hearing held by GSA.
- November 6, 2007: Section 213 Report from NPS to ACHP.
- November 12, 2007: Draft EIS comment period closes.
- December 2007- March 2008: The GSA 'Pause and Reflect' period occurs.
- March 2008 – Consulting Party meetings restart
- November 16, 2008: Final EIS Document is released.
- December 7, 2008: NEPA Record of Decision (ROD) for the DHS headquarters consolidation was signed.
- December 8, 2008: Federal Highway Administration issued its Section 4(f) Evaluation.
- December 9, 2008: St. Es Programmatic Agreement is signed and put into force.
- January 9, 2009: NCPC approves St. Elizabeths Programmatic Agreement.
- September 11, 2009: A ceremonial groundbreaking for the DHS headquarters project takes place at St. Elizabeths.

APPENDIX C

<http://washington.bizjournals.com/washington/stories/2005/12/12/story2.html>

Southeast's St. E's to land new HQ's, \$900M budget

Washington Business Journal - December 12, 2005

Tim Mazzucca, Staff Reporter

D.C.'s long-in-limbo St. Elizabeths Hospital campus will start the new year with a new mission -- if not a fully fleshed-out plan -- boosted by a \$900 million investment to transform the blighted campus into a complex for several headquarters operations.

President Bush voiced earlier this year his desire to move the Coast Guard headquarters from Southwest's Buzzard Point to the 176-acre west campus of St. E's. What no one knew then is that Coast Guard wouldn't be alone atop the hill in Southeast's Anacostia neighborhood. The General Services Administration, the federal government's real estate agent for St. E's, now is getting ready to put out an RFP for construction management services on the project. Aside from the \$270 million GSA expects to pay for the Coast Guard headquarters, the RFP also will allot \$600 million for "two additional headquarters buildings that have not yet been identified," according to a pre-solicitation notice. The GSA would not comment on possible tenants.

GSA is expected to publish an RFP Dec. 19, looking for a construction manager to handle the rehabilitation and new construction on St. E's campus. Proposals will be due in mid-January. No size is given for the unidentified headquarters buildings, but brokers say an agency related to the Department of Homeland Security -- the cabinet-level department that contains the Coast Guard -- would make the most sense. However, whether that agency is related to Coast Guard or D.C.'s Unified Communications Center (UCC) is unclear. Related to the Coast Guard, the Bureau of Immigration and Customs Enforcement (www.ice.gov), now at 425 Eye St. NW, will be hunting for a new base around the time the buildings could be delivered.

On the other hand, as the city's emergency switchboard, UCC has innate ties to the Homeland Security Department's emergency response teams, which has brokers talking about moving a related federal agency -- such as the Federal Emergency Management Agency, now at 500 C St. SW. FEMA (www.fema.gov) had planned to move to Potomac Center, at 550 12th St. SW, in 2001, but after the terrorist attacks of Sept. 11, heightened security standards made the building unsuitable for the sensitive agency. St. E's west campus could provide FEMA with the needed security, such as controlled access and setbacks from roads.

Security has everything to do with GSA's new plans for the campus, which will bluntly rebuff any trends elsewhere toward mixed-use development. Contrary to original plans, GSA is ready to construct a secure federal campus that will have little public access. Developers and urban planners had hoped St. E's would have a component that would allow the public onto the site's bluff, where there is a full view of Washington. "This isn't something that's going to support the neighborhood," says Dave Garrison, senior fellow with the Brookings Institution. "There are some ways to divide the west campus up." Also, being a locked-up campus may effect commercial development along Martin Luther King Avenue. "How are they going to avoid the Buzzards Point problem of being consigned to Siberia?" says Garrison, referring to the Coast Guard's current secluded base. "If you look five to seven years out, you can see how

that [Anacostia] neighborhood could be a vibrant area. But when you lock the west campus up, who knows?"

The federal government owns the entire west campus, at 2700 Martin Luther King Ave. SE, which has 61 buildings totaling about 1.1 million square feet. All types of real estate professionals in the past year have been thinking about uses for the campus. Land-use professionals, architects, engineers and environmental surveyors all have helped in a feasibility study to figure out how the Coast Guard should operate and what the campus should look like.

Architecture firm Perkins + Will (www.perkinswill.com) was hired in September to design the headquarters. GSA will ask for funding in President Bush's 2007 budget to begin construction on the Coast Guard headquarters. A master plan is scheduled to be completed early next year, but GSA wants to have a construction manager in place so building and rehabilitation can start while the ink dries on the plans.

All that has led to this point: Building it.

APPENDIX D

http://articles.washingtonpost.com/2012-03-30/business/35446682_1_homeland-security-security-campus-project

St. Elizabeths renovation as security campus faces resistance

By Jonathan O'Connell, March 30, 2012 - Washington Post Business

Washington real estate developers Jeff Epperson and Rick Powell began snapping up land on Howard Road in Anacostia in 2004. It was an aggressive move in the downtrodden neighborhood.

The potential, after all, was great.

A new headquarters for Homeland Security — the biggest federal construction project in the country since the Pentagon in the 1940s — was on the way. The \$3.4 billion project was expected to transform the sweeping grounds of St. Elizabeths Hospital into a national security campus and bring 16,000 jobs to the very poorest of Washington neighborhoods.

Federal and District officials have promoted the project as a savior that would finally bring jobs and prosperity to surrounding Southeast neighborhoods — Anacostia, Buena Vista, Barry Farm, Congress Heights. The work-a-day crowd with cash to spend also has signaled opportunity to commercial real estate developers whose business was kicked sideways in the recession.

Yet after 10 years of planning and two years of construction, progress is dragging to a halt as lawmakers feud over matters big (how to secure the nation) and small (what offices to lease). A tug-of-war over funding has left the project with barely enough money even to finish its first building, the U.S. Coast Guard headquarters.

A larger existential crisis also looms: Some in Washington are asking whether the Department of Homeland Security, an agency created in the days after the 9/11 terrorist attacks, should be dismantled.

For now, the former mental asylum — whose vacant brick buildings and placid grounds once served as a home to patients including the poet Ezra Pound and John Hinckley, who shot President Ronald Reagan in 1981 — is still planned as the agency's home.

So much, it turns out, depends on Congress, where the Republican-controlled House has slimmed or rejected a series of funding requests. The delays have added an estimated \$500 million to the cost, which has ballooned to \$3.9 billion, \$1.3 billion of which was spent as of December. Initially expected to be completed by 2016, the project could now take until 2021 or later, if it is finished at all.

The chairman of a House committee overseeing the project says most of the plan ought to be scrapped. And even the project's most fierce advocates cannot say for certain when the project might be finished or even if it will be.

Over on Howard Road, Epperson and Powell have watched their prospects fade. The partners tried to lure Wal-Mart, but it went elsewhere. They tried to land a lease for additional Homeland Security offices, but the government canceled the offering. In recent months, they tried to secure financing to build apartments on their 10 acres but found no takers.

“We’re in a bit of a holding pattern with not much prospects at this point,” Epperson said. “We don’t know what we’re doing. We’ve lost a tremendous amount of value in the past few years.”

Historic hospital

First called the Government Hospital for the Insane, St. Elizabeths was built in the 1850s as a grand demonstration of therapeutic treatment for the mentally ill after furious lobbying of Congress by advocate Dorothea Dix. Bisected by Martin Luther King Jr. Avenue SE, the hospital’s 183-acre east campus is owned by the District, which built a new 450,000-square-foot in-patient mental hospital there in 2010.

Since the last patients left the federally owned west campus in 2003, it has been vacant but for the occasional escorted tour group or film crew (you might remember it from the opening scene of the 1992 Tom Cruise/Jack Nicholson film “A Few Good Men”).

That is, until the Sept. 11, 2001, terrorist attacks. After President George W. Bush and Congress created the new security agency, the eerie and empty brick buildings quickly entered the discussion about where to consolidate.

The plan to house the agency there was forged on a promise that the department, created to coordinate the work of dozens of government agencies that play a role in securing the nation from terrorist threats, would be based near Congress and the White House.

A decade later, the 22 agencies that report to the department — formerly scattered under Justice, Energy, Treasury, Transportation, Agriculture and beyond — operate out of more than 40 office buildings across the region. The department’s headquarters are in a space formerly used by the Navy, in the Nebraska Avenue Complex, but other parts are as far away as Herndon and Springfield — a painfully long drive in the event of an emergency that requires a rapid response. The campus is considered critical.

“It will help us build that culture of ‘One DHS,’ ” DHS Secretary Janet Napolitano told CNN at the groundbreaking in September 2009. Sen. Joseph I. Lieberman (I-Conn.), who helped create the agency, said, “I feel like we’ve finally given a home to this child we’ve created, which is finally reaching maturity.”

The master plan called for nearly all the agencies to relocate to St. Elizabeths, to new buildings and 52 (of 62) renovated ones. After wrangling with historic preservation groups that wanted to protect the quaint quality of the campus, which was designated a National Historic Landmark in 1991, and downsizing its plans, the General Services Administration and the department won approval to pack 3.8 million square feet of office space on the west campus and another 750,000 square feet for the Federal Emergency Management Agency across the street on the District’s east campus.

Shifting grounds

Since the plan's approval in 2009, Clark Construction and its subcontractors have removed more than 1.6 million cubic yards of dirt for the Coast Guard headquarters, but the political ground beneath St. Elizabeths has shifted even more dramatically.

Led by House Republicans, the 2011 Congress, amid the throes of deep economic turmoil, brought a renewed focus on austerity that has clamped the revenue streams on which many commercial real estate firms in Washington have long thrived.

The federal government fills roughly one-quarter of the region's commercial office space. And the slowdown caused something of a panic for landlords wondering where to get their next rent check. Some office buildings that once relied on government tenants are now empty, with owners at risk of defaulting on loans.

Leases for government agencies, which formerly were approved with regularity, now sometimes wait a year or more for Congress to act. Historically, such leases were often signed for 10 or 20 years. Uncertainty about the economy and political infighting have left real estate developers eager to land even two-year lease extensions.

In the 2011 fiscal year, the GSA submitted or resubmitted 19 Washington-area lease prospectuses to Congress; 11 have been approved. Most had been trimmed considerably. For instance, a request for 231,000 square feet for the National Park service was cut to 158,000 square feet. Of the five leases Congress received this fiscal year, it has approved none. The delays require the GSA to allow leases to fall into holdover, which costs extra and which adds to the agency's administrative burden. It also flummoxes private landlords.

"These tenants are just sitting and these leases are approaching expiration. And the landlords just don't know what to do," said Darian A. LeBlanc, director of government services at the brokerage firm Cassidy Turley. "In some cases it is just devastating to the ability to plan what happens within these buildings."

The government owns other space, some of it valuable and expensive to operate, that it allows to lie vacant or underutilized. After pressure from lawmakers, including Rep. Jeff Denham (R-Calif.), the GSA moved to lease out the Old Post Office pavilion on Pennsylvania Avenue, which was occupied but losing more than \$6 million a year. Donald Trump's hotel company won a bid to turn the landmark into a 250-room luxury hotel.

More often, properties languish. That was the focus of a forum, "GSA Downsizing — A Perfect Storm Looming," held by the D.C. Building Industry Association, a trade group. Ernest D. Jarvis, the group's president and senior vice president at First Potomac Realty Trust, said disagreement on the Hill had tempered investment interest in Washington. He hopes the elections will lead to the "re-igniting of the local economy."

"We hope that one party, from the real estate perspective, will control both the White House and Congress," he said, "because then I think we'll see more prospectuses moving."

Dismantling plans

If Washington's austerity spirit holds, the next step could be dismantling the plan for St. Elizabeths and perhaps even the security agency itself. In some ways it's already begun: For the 2011 fiscal year President Obama requested \$668 million for St. Elizabeths construction through the GSA and Homeland Security budgets; Congress provided \$107 million.

In the following budget, the department and GSA requested a combined \$376 million, which the House initially cut to zero. A deal on the budget ultimately produced \$37.3 million for GSA and \$56 million for the department, just enough to finish the Coast Guard headquarters. The department postponed work on utilities, a stone facade along an access road and a visitor's center.

Much bigger, more overt steps may be on the way. Rep. John L. Mica (R-Fla.), chairman of the House Committee on Transportation and Infrastructure, which oversees GSA, says he thinks the master plan for St. Elizabeths ought to be chucked and the combining of dozens of agencies into one department, as Congress and Bush did in 2002 with a law creating Homeland Security, ought to be reconsidered.

"It was a time post-9/11. Bush had resisted efforts to put 22 agencies with over 200,000 people together," Mica said, "but the pressure was pretty strong and usually government overreacts. And of course that's what we did."

It should be turned back, he says. On this point, Mica is joined by a number of the Republican presidential candidates. Rep. Ron Paul (R-Tex.), who voted against creating the department, has repeatedly called for dismantling it and referred to the department's Transportation Security Administration as "a bureaucratic monster." Former House speaker Newt Gingrich wants to move its focus to the Mexican border. "I would be willing to take half the people currently serving in Washington, ship them to Texas, Arizona and New Mexico," he said in a September debate.

Rep. Peter T. King (R-N.Y.), who leads House oversight of the department, supports DHS and its consolidation but acknowledged that "because of our current fiscal challenges, this project will not be completed as quickly as anyone hoped."

Mica said the agency's mission did not require so many employees.

"There's no way you need 16,000 people that close to the White House. And I think there's no way you need 16,000 people in DHS," Mica said. "You need some people to connect the dots, which was the recommendation of the 9-11 Commission." He expects the House to become more conservative after the election, which could lead to a recalibration of the department and its headquarters.

"My prediction," Mica said, "and remember this conversation a year from now, is that there is a new crowd coming, and they will be refining the DHS mission."

Promise lost

If the plan for St. Elizabeths falls apart, so too will a second promise on which it was created — that the campus would contribute to the rejuvenation of Southeast Washington, where unemployment has floated above 20 percent in recent years.

Consider the cafeteria at the Coast Guard's new 1.2 million-square-foot building: It will seat 300, or one of every 12 employees at lunch time.

This was intentional, part of a plan to avoid building an isolated fortress where badge-wearing security workers simply drive through gates fit for the citadel on their way to homes in

Virginia or Maryland. Better, it was thought, to bolster the city just outside its gates. Employees could step out for lunch, dry cleaning, haircuts and the like.

The Coast Guard's building is on a bluff overlooking the Anacostia River and downtown Washington, with views that rival those in Rosslyn skyscrapers. But in terms of food, it's a long way from anywhere. Employees could get in their cars and take I-295 to Maryland or hop a shuttle bus off of campus to eat at . . . well . . . the former Players Lounge. Now called Georgena's, the former strip club at 2737 Martin Luther King Jr. Ave. is nearly the only sit-down option nearby.

Retailers and developers have staked positions near the campus. The Curtis family, which built the 19-foot-high "Big Chair" in downtown Anacostia, partnered with Four Points, a real estate firm with expertise in Tysons Corner. Together they plotted a broad renovation of downtown Anacostia, 1.5 million square feet of new development.

Victor MacFarlane, builder of the largest African American-owned real estate investment firm in the country, bought a stake in the city's professional soccer team, D.C. United, and looked at Anacostia for a new team stadium.

Private developers bought sites near Green Line Metro stations in Prince George's County and hoped to attract 1.1 million square feet of DHS office space that the agency couldn't fit on St. Elizabeths.

The D.C. government also moved aggressively to develop Poplar Point, a swath of 110 undeveloped acres along the Anacostia waterfront that mayor Adrian M. Fenty called a "once-in-a-lifetime" opportunity to bring prosperity east of the river. Early in 2008 Fenty picked Clark Realty Capital from a strong pool of development teams to build 40 acres of the site into a \$2.5 billion mixed-use community with offices, housing, retail, an international environmental center and 70 acres of parkland.

Soon after, the Obama administration pledged \$450 million from the American Reinvestment and Recovery Act for redevelopment of St. Elizabeths, setting a booster rocket to the project.

But by the gray day of the groundbreaking in 2009, storm clouds for St. Elizabeths loomed. Though the plan had been approved only nine months earlier, many of the large streams of private and public investment into the area seemed to run dry.

In the wake of the recession, Four Points and the Curtis family backed off of building new offices. The Fenty administration cut Clark Realty loose as its Poplar Point development partner, as city administrator Neil O. Albert cited the "extremely challenging economic environment." And MacFarlane sold his stake in D.C. United; the team is looking elsewhere for a stadium.

Epperson, one of the owners of the land on Howard Road, is wondering what it will take to get St. Elizabeths on track again. "I think it's a political issue," he said. "If Homeland Security raises to be an important security issue, they start cracking whips and they will make it happen. That's sort of how politicians work. Today everyone is talking about jobs. But if someone drops a bomb in Washington tomorrow, it will seem pretty important."

District's representative

House Del. Eleanor Holmes Norton (D-D.C.), the District's non-voting member of Congress, says she is committed to seeing the project through. She points out that many of the city's landmark buildings (National Archives, Federal Trade Commission, the west building of the National Gallery of Art) were built during Franklin D. Roosevelt's presidency. Partly because the country under Roosevelt spent heavily on public works projects. Partly because he was president for a long time: 12 years.

Norton says a project as ambitious as St. Elizabeths requires many years and multiple compromises and commitments to complete. "To end it," she said, "would be one of the greatest mistakes of all time."

Norton and Robert Peck, head of the Public Buildings Service for the GSA, both acknowledge that the master plan may have to change. Norton said the government might have to reconsider the order in which to construct buildings if it can't be sure the entire campus will be finished. Utility systems may have to be built piecemeal as segments of the campus are funded, rather than building the system at once (though that would cost less).

The GSA, under Peck, is reducing the office space it builds or leases for government workers by encouraging desk-sharing, telecommuting and no longer reserving space for those who are traveling or out sick. Ultimately Peck thinks he could bring more than 16,000 employees to St. Elizabeths, which would save costs elsewhere.

But will Congress come through?

"Homeland Security is still planning to move," Peck said. "If you ask me when is Homeland Security going to be there, I just don't have an answer."

"I predict yes," Norton said, "but I can't tell you when."

East campus develops

The D.C. government, meanwhile, presses on with the east campus, where — after proposing to Northrop Grumman that the contractor move its global headquarters there — it has nearly completed a master plan that calls for a mixed-use neighborhood with convention spaces, offices and cybersecurity research facilities. Mayor Vincent C. Gray, a resident of Southeast, has made development of east-of-the-river neighborhoods a top priority and proposed \$113.5 million for the campus. Gray is expected to begin seeking private development partners for the site this year.

Even with the uncertainty that emanates from the federal campus across the street, there is some private sector interest in the District's parcel.

Microsoft may open an Innovation Center, a hub to help local residents and businesses access new technology opportunities, that would be its first in the nation. Victor Hoskins, the city's deputy mayor, said Microsoft officials toured St. Elizabeths three times and that the company was "very serious." about the idea.

"I'd like to see a Johns Hopkins-type of technology park," Hoskins said.

A California company, MVM Technologies, plans to open an ink-jet manufacturing facility there.

And the Chesapeake Crescent Initiative, an alliance of nine research universities in the region, imagined St. Elizabeths east as a science and innovation hub. Co-founded by former AOL executive George Vradenburg and Georgetown developer Hebert S. Miller, the group helped the city, Carnegie Mellon and Virginia Tech land a \$532,000 grant to help spin off opportunities from DHS into the local technology community.

By December, at a meeting on St. Elizabeths convened by Chesapeake Crescent, the innovators were optimistic — even as they puzzled over the delays. Vradenburg asked: “How do you get things moving on the east campus well before things are happening on the west campus?”

Chris Cummiskey, Homeland Security’s deputy under secretary for management, addressed the crowd of academics, government officials and business leaders who were eager to hear about the future of his agency, which procured \$83.3 billion in business from the private sector between 2005 and 2010.

“Things have changed,” Cummiskey said. “The ground has shifted. And we’ve had to be agile in response to those challenges. Sometimes better than others, quite honestly.”

Even so, Mica said, these are frugal times. Going forward, he expects the department “will be more of a security, connect-the-dots agency.”

“Congress isn’t going to give it money. And I think in the future things will only go there when we have a need for it,” the congressman said. “It may not be what was initially envisioned.”

APPENDIX E

SECTION 213 REPORT TO

THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

U.S. Department of the Interior's Evaluation of the Government Services Administration/National Capitol Region Rehabilitation of Saint Elizabeths Hospital National Historic Landmark (West Campus) for the Department of Homeland Security National Headquarters, Washington, DC

Prepared by National Historic Landmarks Staff
Northeast Region, National Park Service
Philadelphia, Pennsylvania
November 6 , 2007

Introduction:

St. Elizabeths Hospital West Campus, a 176-acre tract located between Martin Luther King Junior Avenue and Interstate Highway 295 in the Anacostia section of Washington, D.C., is currently under consideration for redevelopment as the headquarters facility for the Department of Homeland Security (DHS). This parcel is part of the St. Elizabeths Hospital National Historic Landmark (NHL) District designated by the Secretary of the Interior on December 14, 1990. On January 12, 2007, John M. Fowler, Executive Director of the Advisory Council on Historic Preservation (ACHP) requested a special 'Report on the Redevelopment of St. Elizabeths' under Section 213 of the National Historic Preservation Act (16 U.S.C. §470u) "detailing the significance of (the) historic property, describing the effects of (the) proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects." During the past nine months NPS staff has visited the NHL District, reviewed draft documents and followed the deliberations of the St. Elizabeths Hospital West Campus Consulting Party Working Group. On October 1, we received the Draft Environmental Impact Statement (DEIS) that defines the alternative plans developed by the Government Services Administration (GSA) for the reuse of the West Campus as the DHS Headquarters. The DEIS serves as the basis for the comments on evaluation of effects. This report speaks for the historic resource and explains how the DHS plans would affect this unique National Historic Landmark, a resource that is by definition one of the most important cultural, architectural and historical properties in the United States.

Significance:

St. Elizabeths Hospital is nationally significant for its associations with historical persons, events, architectural innovation and landscape design for over a century from the time that it was founded in 1852 until the mid-twentieth century. This legacy was officially recognized by the Secretary of the Interior's designation as a National Historic Landmark in 1990. The resource includes some 336 acres located along both

sides of Martin Luther King Junior Avenue. The West Campus, the subject of this review, is the heart of the NHL District and contains the most significant landscapes, views, and buildings.

St. Elizabeths represents one of the most progressive, reform movements in our nation's history: the humane and professional treatment of the mentally ill. It is the direct descendant of initial improvements in mental health care begun in Great Britain in the late 18th century which influenced Quaker reformers at Friends Hospital in Philadelphia in 1818 (NHL 1999) which was developed further at the Institute of the Pennsylvania Hospital in Philadelphia (NHL 1965) by Thomas S. Kirkbride during the second quarter of the 19th century. Dorothea Dix, one of the most noted humanitarians and social reformers of the mid-19th century was instrumental in bringing the Kirkbride plan to Washington in 1852 and having it serve as the basis of the newly authorized federal hospital for military personnel suffering from mental illnesses. This movement towards humane and constructive therapeutic treatment of the mentally ill represented one of the most important reforms that swept the nation in the 19th century, transforming it from a culture of ignorance and neglect to one of respect and hope. One of the most important aspects of this approach was providing clean well lit and ventilated facilities in the midst of a healthy, rural environment where the patients could enjoy beautiful landscaped settings and benefit from working in the gardens and on the associated farm. This early form of occupational therapy became a hallmark of the Kirkbride approach.

Dix worked closely with Charles H. Nichols who served as the first superintendent until 1877. Dix (who had an apartment on the grounds of the hospital) and Nichols engaged Thomas U. Walter, one of the leading American architects of his generation (who served as Architect of the Capitol from 1851 to 1865 during the expansion of both the Senate and House wings and the construction of the present dome) to design the Center Building, the first and most prominent of the early buildings. This building improved on the Kirkbride design and was embraced by Kirkbride himself in his seminal work "On the Construction, Organization, and General Arrangements of Hospitals for the Insane". Known as the "echelon plan" or "the improved linear plan" it "afforded the best facilities for the thorough classification and inspection of the Patients, for ventilation and external views, and for the requisite sub-division of the pleasure grounds." This plan, first developed at St. Elizabeths, and still very much in tact today, was widely copied at hospitals throughout the United States during the last half of the 19th century. The Nichols tenure was also distinguished for its treatment of African Americans within the same institution as whites, although in segregated buildings.

In the late 1870s, Nichols' successor, William W. Godding, pioneered the first "cottage plan" scheme which was to become the standard in the field. This plan consisted of a series of detached buildings that featured dormitory accommodations and day rooms. In 1902 Godding's successor initiated another major expansion of the facility with thirteen buildings designed by the Boston firm of Shepley, Rutan and Coolidge. Four of these buildings were the first to appear on the East Campus, which had been primarily reserved for the farming operation up to that time. Most of these structures

survive today offering a view of mental hospital construction over six decades that traces the developments and theories of the mental health field.

In addition to the architectural and landscape aspects of treatment the Hospital was noted for many other progressive practices. One of the first full-time pathologists in a public mental hospital was hired in 1884. Clinical and scientific research expanded in the early 20th century, leading the field in introducing these functions to mental treatment facilities. In 1907 experimental psychologist Sheperd Ivory Franz took charge of one of the first psychology laboratories. St. Elizabeths pioneered psychotherapy, hydrotherapy and malarial therapy. Superintendent William Alanson White, through his association with Carl Jung, made St. Elizabeths one of the first American hospitals to introduce psychoanalysis, and by 1914 created the position of clinical psychiatrist.

Perhaps the most remarkable aspect of the Landmark's significance is its high level of physical integrity. Not only did the site bear witness to an important transition in the way we care for the mentally ill, the evidence of the history on the site is remarkably complete. The evolution of the field of mental health is displayed through out the grounds like a great text. The many phases of development have been carefully maintained over the past 150 years and exhibit both historical importance and considerable beauty making it a potential site of both instruction and pleasure.

Effects of the Proposed Undertaking:

The GSA proposed adaptive reuse of the West Campus of St. Elizabeths Hospital poses serious, permanent alterations and destruction of multiple character defining features of the NHL. The cumulative effect of these changes would require that the facility in its entirety be considered for dedesignation as an NHL. The landscape setting so important to the design concept that forms the basis of Landmark recognition will be profoundly altered, both in terms of experience of the resource within the property and in the views of the property from outside the NHL, particularly from central Washington. Some buildings will be demolished and the degree to which surviving buildings will be altered remains to be determined, but the security measures inherent to the new use will most certainly require significant alteration.

Archeological resources will be destroyed and potential for public use and enjoyment of the Landmark and its landscapes would be virtually eliminated. It also seems reasonable to conclude that once the new use is in place, any further alterations and demolitions by DHS could not be prevented. In general, this proposal calls for a treatment of the Landmark that is wholly incompatible with its most character defining features.

The DEIS provides the basis for these summary conclusions and states the results of such a reuse on page iii of the executive summary. These conclusions regarding impacts bear repeating here:

1. Direct, major, long-term, adverse impacts on historic buildings would occur due to demolition of some of the buildings on St. Elizabeths West Campus, and to the construction of three entrances along Martin Luther King, Jr. Avenue.
2. Direct, long-term, major, adverse impacts to St. Elizabeths' landscape would occur as features outlined in the Historic Resources Management Plan would be impacted.
3. Due to new construction, there would be direct, major, long-term, adverse impacts on views to and from the Center Building, views from the lawn, views from Congress Heights Historic District, and views to and from the West Campus Cemetery.
4. All alternatives would result in direct, major, long-term, adverse impacts on archeological resources due to new construction.

We concur with these conclusions and commend GSA for accurately assessing the damage that will occur to the NHL if this program is carried out. The uncontested destructive impacts of the proposed program are so extreme that negotiations have not produced an alternative, or the promise of one, that could possibly preserve the NHL. All four alternatives presented including the preferred alternatives, impose an extraordinary burden on the historic resource.

Historic Landscape: The 176-acre West Campus will receive over five million square feet of new construction. (By comparison, The Pentagon, one of the largest buildings ever constructed for the federal government, contains 3.7 million square feet.) The historic landscape has been analyzed in two major studies in recent years and the components of the design have been summarized in figure 4-3 of the DEIS. As described, all of the landscape in the West Campus is significant and integral to the historic resource. The vast majority is identified as either "Therapeutic, Ornamental Landscape", which includes and surrounds the main building clusters, or as "Agricultural Landscape" or "Cemetery and Woodland Slope". All of these landscapes are crucial to the integrity and significance of the NHL. Only the 27.4 acre "Service Landscape and Ravine" area might offer non-intrusive, relatively non-visible opportunities for new construction. However, all alternatives call for the construction of massive buildings on all landscape parcels with the exception of Landscape Unit 3, the Agricultural Landscape. At the very least, 27 of the 60 identified historic landscape features (DEIS p. 5-37 to 45) will be adversely affected. Of course, the new construction will not only directly damage landscape features, it will fundamentally alter the existing relationship of the historic campus buildings. The alternatives site plans all specify massive new construction in close proximity to historic structures that would fundamentally alter the views from and to the buildings and limit their views, both within the complex and from outside the complex.

Security Requirements and Public Access: In addition to the extensive new construction, the plans require improved security fencing. The existing perimeter fences and walls would need to be supplemented with an additional inner chain link fence that would establish a twenty-foot no-mans-land within the outer perimeter. The new security fencing will impose a major incompatible design change. The security requirements for the site will also result in severely limiting or totally eliminating the

possibility for public access to the site and the interpretation of its social and architectural history. At this stage in the Hospital's history, more than a hundred and fifty years after its founding, public access in the context of a new use would provide an important opportunity to interpret the nationally significant history of the site. Barring such access, while not in violation of the Secretary's Standards, confronts the broader objectives of federal preservation programs.

Historic Buildings: Each of the alternatives would produce serious direct impacts on the historic structures. At least 29% of the contributing historic structures are slated for demolition with a cumulative loss of between 11 to 23% of historic floor space (DEIS p. 5-21). Specific treatments of buildings are generally not being considered at this level of planning. However, many of the buildings contain significant interior spatial arrangements as well as original finishes and features that will likely pose problems in the reuse of the structures. The structures cannot be treated as "shells" for purposes of the reuse plan without seriously compromising their integrity.

Recommended Measures to Avoid, Minimize, or Mitigate Adverse Effects:

The reuse plan set forth in the DEIS does not allow for any constructive criticism that would realistically bring the proposal into conformity with the Secretary's Standards for the Treatment of Historic Properties and the avoidance of consideration of dedesignation of the NHL should it be implemented. Reuse of the West Campus as a federal office park is certainly possible and would seem to offer the most likely opportunity for preserving the historic buildings and landscape. However, an appropriate reuse would require doing what GSA and other federal agencies have done at other major facilities, and begin with the evaluation of the historic resource, setting appropriate design guidelines and developing reuse proposals that work within the guidelines. We do not question the spatial and security needs set forth by DHS; we find that they are incompatible with the St. Elizabeths Hospital NHL. Pursuing the DHS program at St. Elizabeths will, in the words of the DEIS, have "direct, long-term, major, adverse impacts" on the Landmark which will deprive the nation of one of its most historically significant and unique resources. We encourage DHS to seek an alternative location where they will be free to pursue their needs unencumbered by historic architectural and landscape resources that were not intended to house their type of facility.

GSA is fully capable of pursuing an appropriate approach to St. Elizabeths; one that can both provide federal agencies with desirable facilities and at the same time offer the public a major cultural and recreational amenity. The opportunity presented by the reuse should preserve the site both for its intrinsic historic significance and its general appearance as one of Washington, D.C.'s most distinguished visual landmarks.

The potential to provide the general public and particularly the city neighborhood of Anacostia with a spectacular park and an interpreted historic resource is clear. St. Elizabeths West Campus served its originally intended use for nearly one hundred and fifty years. The vacating of the West Campus by the Hospital in itself constitutes an adverse effect that should be mitigated. Rather than now subjecting this noble resource to a use program far beyond its capacity, St. Elizabeths should be brought into the

public light that it so richly deserves. This federal facility, born of the most ambitious motives of social reform, humanitarian treatment and medical progress, deserves to be respected materially and interpreted to the public. The achievements of a woman of conscience such as Dorothea Dix, and inspired hospital administrators such as Charles H. Nichols, and renowned architects such as Thomas U. Walter, deserve to be a part of the public historical experience. The fact that the historic use of the hospital largely prevented such public use is no reason why we, as a nation, should not seize the opportunity at this time. The destruction of St. Elizabeths Hospital is not necessary. To do so will mark a sad failure in the management of our most important historic sites.

Documents Included In the DOI Section 213 Review:

- St. Elizabeths Hospital National Historic Landmark Nomination, NPS, 1990.
- Draft Environmental Impact Statement for Department of Homeland Security Headquarters at the St. Elizabeths West Campus, General Services Administration, September 28, 2007.

APPENDIX F



GSA National Capital Region

December 20, 2012

Mr. John Fowler
Executive Director
Advisory Council on Historic Preservation
Suite 809
1100 Pennsylvania Avenue, NW
Washington, DC 20004

Re: Annual Status Report for the Redevelopment of St. Elizabeths West
Campus

Dear Mr. Fowler:

The Programmatic Agreement for the redevelopment of St. Elizabeths signed on December 9, 2008, requires the General Services Administration (GSA) to provide an Annual Status Report on progress related to the provisions of the Programmatic Agreement. The Programmatic Agreement requires that this annual report specifically address the following topics:

- a. Progress in carrying forth and completing the stipulations in the Programmatic Agreement;
- b. Any problems or unexpected issues encountered during the preceding year;
- c. Any changes that GSA believes should be made in implementation of the Programmatic Agreement.

The Annual Status Report (Attachment 1) describes the progress in 2012 on consultation, documentation, conservation, education, and community outreach initiatives. It provides in tabular format a status update on deliverables and provisions in the Programmatic Agreement along with problems or unexpected issues related to those deliverables and stipulations.

At this time GSA believes no changes need to be made in implementation of this Programmatic Agreement.

Since our last annual report, dated January 30, 2012, the following Section 106 agreements have been concluded:

- MOA for the Master Plan Amendment, dated April 19, 2012; and
- MOA for Shepherd Parkway, dated May 11, 2012.

Under the terms of the Shepherd Parkway MOA, GSA transferred funds to the National Park Service (NPS) to assist NPS in the update of its Fort Circle Parks documentation.

U.S. General Services Administration
301 7th Street SW
Washington, DC 20407-0001
www.gsa.gov

Phase 1 Progress

Phase 1 construction continues to progress for the U.S. Coast Guard Headquarters Building, scheduled for substantial completion in Summer 2013, and for the Phase 1B Adaptive Reuse buildings (Buildings 31, 33, 34 and 49), slated for substantial completion in Fall 2013. Construction of the Perimeter Security Fence, Gate Houses, Pump House, Generator Building, on-site Access Road, and the Firth Sterling Intersection are also underway.

Outdoor antennas and interim exterior building identification and wayfinding signs are currently going through design review and are expected to be installed in 2013. GSA determined, and DCSHPO concurred, that the antennas and signs will have no adverse effect.

Portions of Phase 1 on Hold

Due to the availability of funding, portions of Phase 1 development have been placed on hold. It is anticipated that they will be completed during future phases. The following Phase 1 elements, which have already gone through Section 106 consultation and have received design approval, are currently on hold:

- Gate 1 VIP Staff Screening facility (new construction)
- Gate 2 Visitor Center (new construction)
- Gate 3 tunnel infill
- Inner security fence between Gates 1 and 3
- Building 37 Hitchcock Hall - Structural underpinning and waterproofing below grade have been completed and windows and exterior frames will be restored and installed. The underground demarcation room for security and information technology infrastructure has been completed. Although completion of Hitchcock Hall is on hold, the building will be weather-tight and have an activated sprinkler and fire alarm system.
- Building 52 – Ice House (rehabilitation)
- Building 56 – Power House (rehabilitation)
- Landscape Elements:
 - Yellow brick paving behind Building 40, and adjacent to the Center Building/Bakery Connector; the brick pavers were removed, stacked and stored for future installation.
 - Fountain in the courtyard between Buildings 31 and 33
 - Planting around Building 31 transformers
 - Paving path/apron around Building 31
 - Site work around Building 52
 - Stone cladding at the following locations: Access Road retaining wall, the outside face of the 60' north perimeter wall, knee walls at Sweet Gum Lane, new and existing retaining walls between Buildings 52 and 49 and between Building 52 and the ravine, as well as portions of the west perimeter retaining walls not visible from the Access Road.

Change to the Limits of Disturbance

The Composite Limits of Disturbance (LOD) Plan was updated to accommodate additional necessary site work in the vicinity of Gate 6. I reviewed the expansion of the LOD and found that the expanded area had no additional impacts to the historic resources on the site. The previous composite LOD plan with a red area denoting the area of expansion is illustrated in Attachment 2. The revised Composite LOD plan is illustrated in Attachment 3.

Alterations to Approved Designs

GSA found it necessary to make slight modifications to the approved designs of some Phase 1 elements. The alterations will not eliminate approved design elements or substantially alter approved projects. Details about each alteration are included in Attachment 4.

We enjoyed sharing construction and rehabilitation progress with consulting parties during a October 9, 2012, tour of the campus. As always, we appreciate the contributions and cooperation of the Council, the signatories, and the consulting parties. We look forward to continuing consultation in 2013.

If you have any questions please contact me at (202) 260-0663 or nancy.witherell@gsa.gov.

Sincerely,



Nancy Witherell
Regional Historic Preservation Officer

Attachments: 1. Annual Status Report
2. Previous Composite LOD Map
3. Revised Composite LOD Map
4. Phase 1 Development Update

cc: David Maloney
State Historic Preservation Officer for the District of Columbia
Attention: Tim Dennee

Attachment 1
Annual Status Report
St. Elizabeths Programmatic Agreement

December 20, 2012
Page 1 of 7

PA Ref.	Line		Description	Timeframe	Category	Status
	Begin	End				
60	64		Finalize deed conveyance per Exchange Agreement to Transfer Five Buildings and Related Land From DC to GSA	Not Specified	Recitals	Completed.
71	74		Finalize Occupancy Agreements	Not Specified	Recitals	Completed. GSA and DHS have entered into ten-year preliminary Occupancy Agreements (OAs) for Phase 1 of the project prior to occupancy of the Site and have also entered into preliminary OAs for Phase 2. Final OAs for Phase 1 will be in place prior to occupancy currently scheduled to begin in August 2013.
138	139		Assess Eligibility of Martin Luther King Avenue	Not Specified	Recitals	Completed. Determination of Eligibility Document available on project website.
148	155		Contact Native American Tribes	Not Specified	Recitals	Completed. GSA has consulted with DCHPO to conclude there are no federally recognized tribes in the District of Columbia, Maryland, or Virginia nor are there any tribes who have relocated to a different area that reasonably have any documented historic ties to the site. If any federally recognized tribe should come forward to demonstrate historic ties to the site and be interested in developing consultation procedures for projects resulting from this undertaking that have not already been approved that may affect Historic Properties with which said tribe has historic ties, said tribe may consult with GSA to develop such procedures.
174	177		Explore traffic, access and design alternatives along Martin Luther King Avenue	Not Specified	Recitals	Design concept alternatives were presented and discussed during Section 106 consultation and analyzed in the DEIS for the Master Plan Amendment. Traffic analysis and a preferred design were included in the Record of Decision and Master Plan Amendment approved by NCPIC in June. Section 106 consultation will continue as the design is developed according to the MOA dated April 19, 2012.

Attachment 1
Annual Status Report
St. Elizabeths Programmatic Agreement

December 20, 2012
Page 1 of 7

PA Ref.	Line Begin End	Description	Timeframe	Category	Status
60	64	Finalize deed conveyance per Exchange Agreement to Transfer Five Buildings and Related Land From DC to GSA	Not Specified	Recitals	Completed.
71	74	Finalize Occupancy Agreements	Not Specified	Recitals	Completed. GSA and DHS have entered into ten-year preliminary Occupancy Agreements (OAs) for Phase 1 of the project prior to occupancy of the Site and have also entered into preliminary OAs for Phase 2. Final OAs for Phase 1 will be in place prior to occupancy currently scheduled to begin in August 2013.
138	139	Assess Eligibility of Martin Luther King Avenue	Not Specified	Recitals	Completed. Determination of Eligibility Document available on project website.
148	155	Contact Native American Tribes	Not Specified	Recitals	Completed. GSA has consulted with DCHPO to conclude there are no federally recognized tribes in the District of Columbia, Maryland, or Virginia nor are there any tribes who have relocated to a different area that reasonably have any documented historic ties to the site. If any federally recognized tribe should come forward to demonstrate historic ties to the site and be interested in developing consultation procedures for projects resulting from this undertaking that have not already been approved that may affect Historic Properties with which said tribe has historic ties, said tribe may consult with GSA to develop such procedures.
174	177	Explore traffic, access and design alternatives along Martin Luther King Avenue	Not Specified	Recitals	Design concept alternatives were presented and discussed during Section 106 consultation and analyzed in the DEIS for the Master Plan Amendment. Traffic analysis and a preferred design were included in the Record of Decision and Master Plan Amendment approved by NCPIC in June. Section 106 consultation will continue as the design is developed according to the MOA dated April 19, 2012.

Attachment 1
Annual Status Report
St. Elizabeths Programmatic Agreement

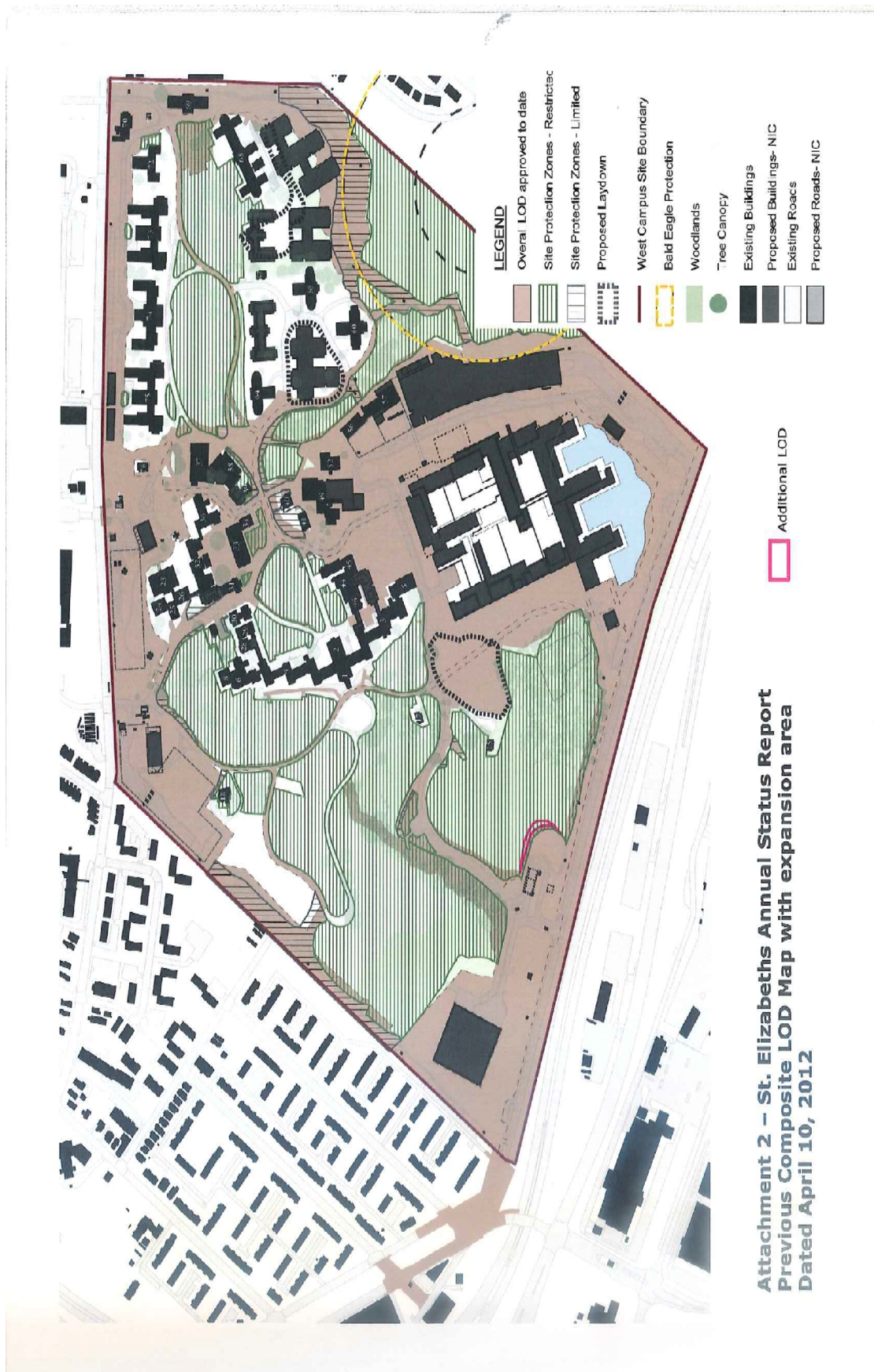
PA Ref. Line Begin End	Description	Timeframe Effective Date	Category	Status
607 624	Plans for carrying out HABS/HAER/HALS		Documentation and Recordation	HABS documentation is complete and has been submitted to NPS. HABS photographs have been completed for all resources on the West Campus and have been submitted to NPS. Full HABS documentation has been completed for 32 buildings and have been submitted to NPS. HABS documentation for contributing resources in construction phases 2 and 3 will be completed prior to disturbance of the resources. HAER documentation is not warranted for St. Elizabeths based on the nature and condition of Cultural Resources present in the NHL.
607 624	Plans for carrying out archaeological documentation	Not Specified	Documentation and Recordation	Completed. The final Archaeological Resource and Management Plan (ARMP) dated August 2012 addresses plans for carrying out archaeological documentation and has been submitted to the DCSHPO.
626 633	Identify off-site location for St. Elizabeths Archive	12/9/2009	Documentation and Recordation	Identification of an appropriate off-site location is ongoing. An interim location is located in the GSA Field Office in Building 40 on the West Campus.
635 648	Develop Historic Structures Reports (HSRs) and Building Preservation Plans (BPPs)	Before rehabilitation plans will be considered.	Documentation and Recordation	Completed. All HSRs/BPPs have been completed and are available on the project website.
650 654	Consultants preparing HSRs/BPPs will meet the Secretary of the Interior's Historic Preservation Professional Qualification Standards	Not Specified	Documentation and Recordation	Completed. The consultants who prepared the HSRs/BPPs meet the Secretary of the Interior's Historic Preservation Professional Qualification Standards.
656 661	Donation of St. Elizabeths Database and other information to St Elizabeths Archives	Not specified	Documentation and Recordation	Completed. Database and collection of other information is housed at GSA's Regional Office Building and will be a part of the St. Elizabeths Archives when the archive finds a permanent off-site location required in the stipulation beginning at line 626.

PA Ref. Line Begin	PA Ref. Line End	Description	Timeframe	Category	Status
663	677	Landscape Preservation Management Plan (LPMP)	12/9/2009	Documentation and Recordation	The LPMP has been broken down into three documents: Landscape Preservation Plan (LPP), Landscape Integration Plan (LIP), and the Landscape Management Plan (LMP). The LPP has been completed. The LIP is largely completed but remains a working document as landscape design is refined. The LMP is in draft form and will be completed as phases of the construction conclude and the phase becomes operational. All documents have been discussed in Section 106 consultation.
679	691	Update the 1993 St. Elizabeths Hospital Archaeological Resource Management Plan	Not Specified	Documentation and Recordation	Completed. The final Archaeological Resource and Management Plan (ARMP) dated August 2012 has been submitted to the DCSHPO. Phase I archaeological surveys, including construction monitoring, and Phase II NRHP site evaluations have been completed for portions of the West Campus and for the entire Shepherd Parkway Access Road LOD. Phase 1a and 1b archaeological surveys have been completed for the North Parcel on the East Campus. Phase III data recovery investigations have been completed at one archaeological site on the West Campus.

PA Ref Line		Description	Timeframe	Category	Status
Begin	End				
713	722	Create a Citizens Advisory Panel (CAP)	Members in place to coincide with and support project phasing.	Public Outreach, Interpretation and Education	As GSA was working through the process of creating a Citizens Advisory Panel (CAP) it became apparent that the St. Elizabeths team has a robust public involvement program that includes: GSA's regular participation in community meetings; a full-time GSA community outreach liaison; monthly public cooperative tours with the DC Preservation League (DCPL); regular Consulting Party meetings; NEPA process public involvement, and an extensive public website providing access to project documents. These many avenues for public involvement have created a well-balanced program for substantive public input. Because of federal budget uncertainties and immediate project funding priorities the establishment of a formal CAP has been deferred to a later appropriate date. Within this context GSA will regularly reevaluate the timing of establishing a CAP.
724	729	Develop Permanent Exhibit	Not specified	Public Outreach, Interpretation and Education	GSA is actively exploring ways to fulfill this stipulation and has been looking into possible partnerships with the Smithsonian Anacostia Community Museum as well as with the District of Columbia which intends to designate space in its master plan for the East Campus for a possible site for a St. Elizabeths Museum. Funding limitations have made the creation of a 2013 exhibit at the National Building Museum infeasible.
731	744	Museum/Visitor Education Center	Not Specified	Public Outreach, Interpretation and Education	GSA is actively exploring ways to fulfill this stipulation and has been looking into possible partnerships with the Smithsonian Anacostia Community Museum as well as with the District of Columbia which intends to designate space in its master plan for the East Campus for a possible site for a St. Elizabeths Museum.
748	752	Develop Interpretive Program	6/9/2010	Public Outreach, Interpretation and Education	Completed. The Interpretive Plan which outlines the parameters for all interpretive elements has been completed and is available on the public project website.

PA Ref. Line Begin	PA Ref. Line End	Description	Timeframe	Category	Status
754	760	Develop Interpretive Signage	Not Specified	Public Outreach, Interpretation and Education	Parameters for an interpretive signage program are included in the interpretive Plan. It is anticipated that implementation of this component will not begin before the end of 2013.
762	768	Post interpretive panels during construction	During each phase	Public Outreach, Interpretation and Education	Completed.
772	775	Develop Publication	Not specified	Public Outreach, Interpretation and Education	The book length history of St. Elizabeths is expected to be completed in the first quarter of 2013 and will be available on the public project website. GSA will continue to explore ways to have the book printed when funds become available.
777	782	Develop Brochure and Poster Series	Not specified	Public Outreach, Interpretation and Education	A brochure created in partnership with the DCPL was completed in 2011. The Interpretive Plan lays out additional opportunities for brochures and for posters. It is anticipated that implementation of this component will not begin before the end of 2013.
786	793	Develop Lesson Plan	Not specified	Public Outreach, Interpretation and Education	The Interpretive Plan lays out parameters for the development of Lesson Plans. It is anticipated that Lesson Plans will be developed in the first half of 2013.
795	802	Pursue relationship with Phelps Architecture, Construction and Engineering Academy	Not specified	Public Outreach, Interpretation and Education	GSA will work to incorporate a partnership with the Phelps Academy when construction phases 2 and 3 get underway.
804	812	Conduct and document oral histories	Not specified	Public Outreach, Interpretation and Education	Completed. GSA conducted oral histories in 2011 which assisted in the development of the Interpretive Plan. Additional oral histories will be collected in the first half of 2013.

PA Ref. Line		Description	Timeframe	Category	Status
Begin	End				
816	857	Develop Public Access Program	Regularly during all phases of pre-construction, development and occupancy.	Public Access	Since the execution of the Programmatic Agreement GSA has provided regular access to the site for community tours in collaboration with DCPL. The Interpretive Plan lays out parameters for the development of a permanent public access program to be put into place once site redevelopment is completed. A temporary public access program will be developed in 2013 to allow for public access once construction phase 1 is completed and part of the West Campus becomes operational.
866	871	Develop prioritized list of all drawings and photos at the AAF	Not Specified	Conservation and Artifact Preservation	Completed. Conserved drawings and digitized files of drawings were deposited in the AAF collection at the Library of Congress.
873	877	Work with AAF to determine proper restoration and conservation treatment for model	Not Specified	Conservation and Artifact Preservation	Completed. Ownership and custody of model has been transferred to GSA. Restoration will be timed to coincide with museum exhibit.
879	890	Evaluate Artifacts Recovered	Not Specified	Conservation and Artifact Preservation	Completed. This evaluation is included in the Archaeological Resources Management Plan.
898	903	Conclude ERT Cemetery Study	Not Specified	Cemetery	Completed.
912	914	Include Cemetery in Interpretive Program	Not Specified	Cemetery	Completed. The Interpretive Plan includes the cemetery and related themes in its thematic approach as well as in its approach to implementing various interpretive components.
916	922	Develop Perpetual Care Plan	6/9/2010	Cemetery	Since the cemetery will remain within the perimeter of the campus, care of the cemetery will be included as part of the Landscape Management Plan.
934	940	Public access program and schedule as part of the Interpretive Program noted earlier	Not Specified	Cemetery	Completed. Access to the cemetery is currently available by appointment and will be included in the public access program.
934	940	Provide and maintain safe and secure parking for cemetery access	Not Specified	Cemetery	Par USCG MOA, cemetery is now inside the secure perimeter of the West Campus. Access to the cemetery will be addressed as part of the Public Access program.



**Attachment 2 – St. Elizabeths Annual Status Report
Previous Composite LOD Map with expansion area
Dated April 10, 2012**



Attachment 3 – St. Elizabeths Annual Status Report
Revised Composite LOD Map
Dated August 10, 2012

Attachment 4
St. Elizabeths Annual Status Report
Phase 1 Development Update
December 20, 2012

Phase 1 Development Design Alterations

A. Buildings 21, 31, 33, 34, and 49 Slate Roofing

After considering the remaining life span of the existing slate and the amount of breakage likely to occur during the removal of the slate roofing required for the replacement of the underlayment and the inspection, repair, and replacement of the wood sheathing, GSA will remove and replace the slate roofs in their entirety.

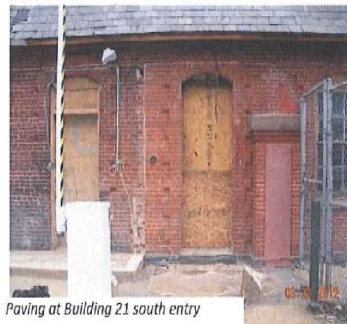
GSA RHPO consulted with the DCSHPO on this repair in kind and the DCSHPO concurred with GSA's proposal.



New slate roof at Building 34

B. Building 21 Floor Finish

The patterned bluestone and quartz floor finish at the exterior south entry proved too fragile to preserve in place. The white quartz tile was in extremely poor condition and many of the bluestone tiles were damaged and could not be reused. The perimeter bluestone was salvaged and will be reused for the sill at the restored window opening on the south façade. Paving to reflect the original pattern will be installed in a future phase.



Paving at Building 21 south entry

C. Building 33 Exterior Wood Rafters and Soffit

Upon discovery of the extent and location of structural deterioration and damage, GSA determined that, the wood rafters and soffit needed to be replaced. The size and profile of the rafters were replicated in pine and the tongue and groove wood soffit was replaced providing a similar appearance as the original bead board.



Building s 33 & 34 and Connector – south elevation

Attachment 4
St. Elizabeths Annual Status Report
Phase 1 Development Update
December 20, 2012

D. Building 33/34 Connector

The abatement and selective demolition of the connector between Buildings 33 and 34 exposed deteriorated wood framing members and presented unanticipated structural, mechanical, electrical, and plumbing problems. The bridge connection will be replaced in-kind.

The roof framing of the non-original portion of the vestibule was severely deteriorated and was replaced. GSA took the opportunity to restore the original windows at the north elevation in lieu of the approved louvers and will install louvers at the new roof framing instead.

Rebuilding the bridge with a shallower structural floor between the buildings allowed for a better transition between the floor elevations as well as more room to accommodate the mechanical, electrical, plumbing, and sprinkler systems serving both structures.

The sheet metal cladding on the north elevation of the main floor, listed as a character-defining feature, was in poor condition and will be replaced in-kind to match the original pattern, profile, and dimensions. The non-original masonry portions of the connector will be rebuilt with brick compatible with the adjacent buildings.

GSA RHPO consulted with the DCSHPO on this alteration and the DCSHPO concurred with GSA's proposal.



Connector – north elevation

Attachment 4
St. Elizabeths Annual Status Report
Phase 1 Development Update
December 20, 2012

E. Building 34 gutters, cornice, roof decking, and trusses

The structural steel hip truss, wood rafters, wood roof decking, masonry coping, sheet metal cornice, built-in gutters, and slate roof were replaced. The wood sill plate and one of the four metal hip trusses were severely deteriorated and the metal cornice was in fair condition.

Given the structural modifications needed to achieve the required blast resistance ratings as well as to support mechanical units, GSA determined replacement of the steel structure was appropriate. The configuration and profile of the steel members were replicated, but with slightly larger steel components.

F. Building 34 exposed steel truss and wood roof decking:

The steel truss structure and wood roof decking were to be retained and partially exposed. However upon development of the design documents, it was determined that a finished, cleanable ceiling was required by health codes. The truss system will be concealed by a new suspended ceiling. This ceiling can be removed in the future to expose the replicated steel truss.



Building 34- deteriorated metal truss and wood sill plate.



Building 34- replicated metal truss and new mechanical unit.

Attachment 4
St. Elizabeths Annual Status Report
Phase 1 Development Update
December 20, 2012

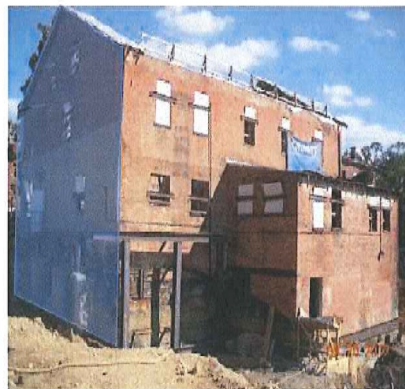
G. Building 49 masonry north wall

During the selective demolition and the excavation for the approved renovation and addition to the building, the unforeseen poor structural condition of the north wall was exposed. The majority of the two story gable end wall is only two wythes thick (one brick length) rather than the expected and typical three wythes in thickness. A wall of two wythes does not allow sufficient depth to form pockets for the new floor beams, nor is it sufficient to support modern floor load requirements.

Building 49 walls have been demolished, rebuilt, repaired, and infilled many times over its long history. After reviewing the building's construction chronology and several remediation options, GSA determined that the solution providing the most sound structural stability and strength was to rebuild the wall, salvaging the non-parged brick for reuse in the building as infill and repairs.

New brick to match the original historic brick in color, variation, texture, and dimension will be used at the exterior face of the wall and eight-inch concrete block masonry units (CMU) will be used as the structural back-up material. The concrete parging, which does not date to the period of significance, will not be replicated. HABS photographic and measured drawings have been completed for this building.

GSA RHPO consulted with the DCSHPO on this alteration and the DCSHPO concurred with GSA's proposal and its determination of No Adverse Effect.



Bldg 49- north wall shaded in blue.



Bldg 49- area of wall that is three wythes thick is shaded in green.

H. Building 78 tile roof

The Historic Structure Report recommended replacing the asbestos cement tile shingles, considered character-defining features. GSA has since been determined that the existing tiles are at the end of their useful life, and are missing in a few areas of the roof. The shingles will be replaced with metal shingles to match the appearance, dimensions, and pattern of the original shingles.



Attachment 4
St. Elizabeths Annual Status Report
Phase 1 Development Update
December 20, 2012

I. Building 49/52 exterior stair, bridge and wall

The deteriorated portions of the stone retaining wall are scheduled to be rebuilt, the remaining portion of the wall and stairs to be repaired, and a new concrete retaining wall is to be built behind the existing wall. Due to the approved re-design of Building 49 with its underground gym and the exterior stair connecting the lower and upper campus, a larger portion than anticipated of the retaining wall will need to be rebuilt. A section of the concrete stair as well as the bridge to the tower has been removed.



APPENDIX G

GOVERNMENT OF THE DISTRICT OF COLUMBIA

HISTORIC PRESERVATION OFFICE



December 20, 2006

William B. Bush
Assistant Regional Administrator
Public Buildings Service
National Capital Region
United States General Services Administration
301 7th Street, SW
Washington, DC 20407-0001

Dear Mr. Bush:

I think it is appropriate at this point to offer some observations on the planning process for the West Campus of Saint Elizabeths Hospital and on consultation about the project in accordance with the National Historic Preservation Act. I hope that if all parties can understand each other, redevelopment can move forward expeditiously, resolving the remaining issues.

Sections 106 and 110 of the Act require federal agencies to consider how their undertaking or approval of projects might affect historic properties and require them to try to avoid or limit harm to those properties. You are undoubtedly aware that Saint Elizabeths is a National Historic Landmark (NHL), the highest level of historic designation available. Section 110 requires agencies to consider the preservation of historic resources as part of their property management responsibilities. It further requires that “[p]rior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, *to the maximum extent possible*, undertake such planning and actions as may be necessary to minimize harm to such landmark...” In other words, as applied to the present case, it requires GSA, the owner and lead agency, to create a plan that would seek to preserve Saint Elizabeths as well as to serve other ends in terms of use.

The Section 106 regulations outline at length the process for trying to resolve anticipated adverse effects. As you know, we have embarked on the public consultation specified to resolve such effects. While GSA’s consultants have produced some very nice graphics and good surveys of the significant resources present at Saint Elizabeths, the meetings for the last several months could be characterized as simply

adding more detail to the *development alternatives* that were initially presented—as opposed to creating or discussing a bottom-up plan for the site or modifying or reconsidering any of these alternatives in order to avoid or minimize adverse their effects on the historic resources present. I have observed a significant amount of confusion and frustration among the participants in the Section 106 consultation because there is little concrete response to the many comments made (in truth, there are sometimes objections but never overt agreement), only assurances that the substance of the comments are being relayed to decision-makers higher up or addressed in an eventual Environmental Impact Statement. It may go without saying that a consultation is something of a give-and-take process, but it is nonetheless stated to be so in the governing regulations.

I fear that there is a misunderstanding current among some agencies in this region that, with the combination of reviews under the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA), the process of the former somehow trumps the intent of the latter. The coordination of NEPA and Section 106 reviews is encouraged for the sake of convenience and avoiding duplication, since they are both public processes and because NEPA addresses preservation issues as well as other environmental concerns. But it has been our experience that when NEPA and 106 reviews are combined, the aims of the latter often suffer for it. The typical NEPA process begins with a public scoping meeting at which a project is introduced; a draft EIS or EA is later distributed; written comments are accepted up to a certain deadline; the agency then produces a final EIS, hopefully taking into consideration comments made (but at least publishing them) and issues its Record of Decision and proceeds with the project. There can be more public consultation, but there is frequently not. And that is the crucial distinction. According to Section 106, if there are adverse effects anticipated for a project of the size and complexity of the Saint Elizabeths redevelopment, there is active consultation with interested parties, usually of a face-to-face nature. In such a case as this, NEPA allows for such a degree of public participation. Section 106 requires it.

The Section 106 regulations explicitly address what happens when the reviews are combined and the NEPA process is followed. Section 800.8 of the regulations (36 CFR Part 800) discusses coordination with NEPA. Among other things, it states that consulting parties should be prepared to consult with agencies “early in the NEPA process, *when the purpose of and need for the proposed action as well as the widest possible range of alternatives are under consideration.*” The NEPA process and documentation may be substituted for the Section 106 procedures outlined in Sections 800.3 through 800.6 *if certain standards are met.* Among these standards is the need to “[i]dentify historic properties and assess the effects... in a manner consistent with the standards and criteria of Sections 800.4 through 800.5...” Survey of the resources present has occurred, but there has been no follow-up analysis nor acknowledgment—let alone proposals for avoidance, minimization or mitigation—of effects posed by the present undertaking(s). Finally, Section 800.8(v) requires that the agencies “[d]evelop *in consultation with identified consulting parties alternatives and proposed measures*” that might avoid, minimize or mitigate effects.

It is difficult in the present case to wholly separate procedural from substantive problems with the present undertaking(s), but in light of the regulations cited above, I would suggest the following procedural issues thus far:

- Initially, as of January 2005, the undertaking was to be the master planning of the campus, presumably from the ground up, based upon the site's characteristics and needs, as is typical for such a plan. Such a plan would be expected to conclude with a sense of the "carrying capacity" of the site balancing the preservation interests with development that would make possible both the preservation and the provision of infrastructure. Months later, and before any consultation had commenced, the undertaking was changed to the planning for "up to 4.5 million gross square feet," including the Coast Guard headquarters and other, unnamed agencies. While it is legitimate to accept the necessity of siting an individual, mandated project within the campus, it does not obviate the need for continued, true planning. It is consistent with your agency's Section 110 responsibilities and with Executive Order 11593, Sections 2(d) and 2(f); with Executive Order 12072, Sections 1-102, 1-104, 1-203(c) and, to the extent that any historic buildings will be proposed for demolition, Section 1-105(b); with Executive Order 13287, Section 4; with GSA's October 19, 2003 order (ADM 1020.2) relating to historic preservation; and with the first site selection criterion published in GSA's *Design Excellence Policies and Procedures* handbook. There really needs to be an analysis of the level of investment needed to provide necessary infrastructure and building preservation/rehabilitation *and* of the level of bulk that becomes too much for the site to bear while retaining its character—i.e., a lower and an upper limit. It is only on the basis of such solid analysis that an undertaking that poses serious adverse effects upon a National Historic Landmark should even be considered. At present, we are proceeding with a vague notion that simply because there is a lot of demand for high-security space in the region, most of the Department of Homeland Security should be relocated to Saint Elizabeths. In the absence of any specific justification, the alternatives proposed for the sake of NEPA review appear arbitrary and unfounded. We understand that the levels of development presented were derived from a Jones Lang LaSalle study, but we have not seen the study and thus are not familiar with its premises or reasoning.
- The three general levels of bulk proposed as NEPA alternatives were first presented in a May 2005 meeting of reviewing agencies prior to any introduction or scoping meeting or any plans for 106 consultation. It is helpful in a scoping meeting to present a wealth of information about the proposed undertaking(s), but these initial bulk studies were not presented at the June 2005 scoping meeting despite their availability (see *NCR Public Buildings Service St. Elizabeths West Campus Scoping Report*, July 2005). Without fully sharing the available information, the public was deprived of the opportunity to anticipate and address all likely issues. Still more unfortunate is the fact that, with the exception of rearranging some of that same bulk, the alternatives have

not fundamentally changed since last summer, despite very pointed requests for consideration of additional or substitute alternatives. The Council on Environmental Quality's *Memorandum for General Counsels, NEPA Liasons, and Participants in Scoping* states that, through the scoping process, public participants "have access to public officials before decisions are made and the right to explain your objections and concerns.... [Y]ou have a responsibility to come forward early with known issues. In return, you get the chance to meet the responsible officials and to make the case *for your alternative before they are committed to a course of action.*" Federal agencies are advised that their "main interest is in getting a proposal through the review process. This interest is best advanced by finding out early where the problems with the proposal are, who the affected parties are, and *where accommodations can be made.* In several cases, we found that the compromises made at this [scoping] stage allowed a project to move efficiently through the permitting process virtually unopposed."

- In the absence of genuine planning derived from GSA analysis of the site and potential program, the consulting parties have been conducting their own analysis of the alternatives' adverse effects. Consistent with Congresswoman Norton's vision for the site, the consulting parties have always accepted the premise that a lot of bulk is justified and necessary for redeveloping the campus. Consequently, they requested early and repeatedly additional or substitute alternatives reflecting a reasonable balance (based upon real analysis) between preservation and new construction. It was clear, for instance, that the alternatives representing the lowest, "1.5-million-square-foot" level of development are not viable, and GSA has no interest in pursuing them for the purposes of analysis or actual use. Representing merely mothballing half the campus (and in one alternative, fencing it off, with no possible street access), they are neither suitable as addressing preservation goals nor planning/redevelopment ones. To simply *not plan* a large portion of the campus is not a responsible or comprehensive way to approach planning and merely kicks the problem of reuse down the road. This is not to say that no 1.5-million scenario is possible, only that it seems the 1.5 million alternatives would be summarily dismissed as inadequate to meet reuse demands. As shown, there was little use including them in the draft; the consulting parties have repeatedly requested studying instead or in addition levels of two to 2.5 million square feet.
- We have been given an idea of the desired bulk for the Coast Guard headquarters and of the fact that the agency prefers a single, new building to accommodate it. While we understand that the Coast Guard has produced some alternative designs for a headquarters, these have not been presented for consultation. We understand that there was a presentation of headquarters designs at a GSA peer review with other federal review agencies at the end of June, and all of the alternatives were located at the present warehouse (Building 118) site, a site favored by the GSA commentary on the concepts.

These alternatives were presented only three weeks after I was told by a representative of the Coast Guard that the agency had no preferred location on the campus. While we have always maintained that that location is suitable for redevelopment, too much bulk there would be problematic for reasons of inward and outward views and encroachment upon the Civil War cemetery and the Center Building precinct. We have maintained that the area around Buildings 60, 66 and 68 is a commodious site preferable from a preservation point of view for several reasons. We ask that the designs for this central piece of the site plan be provided for review by the consulting parties as soon as possible.

- GSA has maintained that planning for the site would, and would have to, proceed without necessarily regarding the specific programmatic preferences of likely projects/tenants *if those potential tenants were not quickly forthcoming with statements of those needs*. But until two weeks ago, we had no specific information on DHS's program other than an unsupported statement from its representative that the agency wants—in fact, needs—the full 4.5 million gross square feet proposed in the highest-density alternatives presented by GSA and will walk away from the site entirely if it does not get it. Such a position is unresponsive to the legal mandates of NEPA and the NHPA and logically inconsistent with a simultaneous claim that the department has nowhere else to go. We are fairly certain that DHS had not supplied GSA with this information (the size and make-up of the components) until recently either. Nonetheless, no *bona fide* independent planning or analysis had gone forward, apparently frozen subject to a DHS claim on the property at that agency's desired intensity of development.
- The consulting parties were told on several occasions that, despite being selected without the benefit of any consultation, the bulk alternatives presented by GSA would be assessed fairly and even-handedly in accordance with NEPA regulations. But in addition to the DHS statements of need for this particular site, GSA representatives have privately and publicly admitted that the intention is to construct the 4.5-million-plus alternatives, again defeating the letter and spirit of NEPA and the NHPA. The most recent occasion of which I am aware was a November 3, 2006 presentation to the District of Columbia Building Industry Association in which Dawud Abdur-Rahman stated that "We are trying very hard to achieve that density on this site." In a meeting two weeks ago between the project team, myself, and a representative of the Advisory Council on Historic Preservation, the team suggested that it may drop the appearance of continuing to consider less than the 4.5-million-square-foot-plus approaches, and certainly the consideration of the 1.5-million alternatives. The *Department of Homeland Security National Capital Region Housing Master Plan* certainly has done so, referring only to "evaluating three development scenarios of 4.5 million gross square feet for office space plus parking that meets DHS's minimum density need."

- After consultant presentations illustrating the historic resources present on the campus, the nature of the consultation meetings has been mainly the further detailing of the proposed bulkier alternatives—rather than a grappling with the problems that those present. In recent months, we have had presentations on parking, security, and storm water management, all of which will have their own effects on the character of the campus and thus aggravate the effects of the underlying bulk of the development. The fact that these details are being added now suggests a real possibility that those who took the decision to pursue the 4.5-million-square-foot alternative(s) may not have had sufficient information at that time in order to make an informed choice.
- The summary of the site selection process for DHS facilities that was ultimately presented to the consulting parties has now been incorporated into the October 2006 *Department of Homeland Security National Capital Region Housing Master Plan*. It is slim and unconvincing. It has the appearance of an executive summary of another report, as yet unseen, and does not demonstrate the need for specific co-location of constituent agencies. While an argument for consolidation sounds plausible if one accepts the rationale for the department, there are no figures offered comparing alternative costs of development including for the transportation improvements; comparing costs of presently leased space versus new construction including support for the assertion of present inefficiencies; comparing costs (or even security benefits) of concentration versus dispersal; or presenting analysis of *all* of the pros and cons of potential sites aside from mere floor area available—in other words, the basics one would expect from a study. While they must be known by now, the “Campus Occupancy Plan” does not offer actual numbers in terms of personnel nor square footage required for each of the DHS components, nor is there any accompanying rationale for why any particular component must be collocated with any other—other than the overarching policy argument that concentration is better. Naturally, we recognize that this document was not produced by or necessarily for GSA, but GSA is nonetheless proceeding according to its conclusions. If Congress is going to use this document to take an informed decision on the broader DHS consolidation, then the nation’s elected representatives deserve to be shown a stronger basis for the various assertions in it. Its arguments are also germane to the consultation. I will address issues with the *Housing Master Plan* under separate cover.
- The site selection process also eliminated immediately any “reasonable alternatives not within the jurisdiction of the lead agency”—including such ideas as land swaps or cooperation with the Department of Defense—contrary to NEPA requirements for an EIS (see reference below). One example we have recommended is consideration of a land swap with the Armed Forces Retirement Home in order to site a portion of DHS there. AFRH is entertaining private proposals for an approximately 4.5-million-square-foot development in the Home’s southeast portion. The inclusion, and dismissal, of such an idea in the *Department of Homeland Security National Capital Region*

Housing Master Plan is offered as an example of such consideration of alternatives not within the agencies' jurisdiction. Upon closer examination, however, it proves a counter-example, as this option was dismissed out of hand instead of being truly entertained. The DHS *Housing Master Plan* erroneously states that "the property would also not likely be available in a timely manner" when it is common knowledge that AFRH is interested in starting construction as soon as physically possible. More important, the site is rejected because AFRH expects revenue through a ground lease on the land. And this is precisely the reason that we proposed a swap: since GSA has a number of marketable urban and suburban sites that are not suitable and AFRH simply needs revenue, such land is fungible and exchangeable. We have also recommended closer cooperation with the Department of Defense, which maintains several large, secured and, some might argue, underutilized parcels in the National Capital Region.

- I need not tell you that, as a major landholder and manager in this region, GSA has a broader responsibility to plan for the use of its land. Naturally, there is no way that you could have expected the need for a DHS campus prior to the creation of a DHS. Ideally, planning for Saint Elizabeths would have commenced when GSA took title to the property—or even before. But planning must continue despite the cropping up of immediate demands so that one is not buffeted by events but can present and support a reasoned approach to responding to such demands. If the matching of sites and tenants continues as a function primarily of the timing of the termination of office leases, then there will tend to be a substantial number of instances of fitting square pegs into round holes. We would encourage closer agency cooperation with the National Capital Planning Commission on long-range planning in this region.

I am sure you would agree that, in order to *resolve* the anticipated adverse effects of an undertaking, one must first *recognize* and *acknowledge* them. While all of the alternatives involve demolition of historic buildings and the agency-preferred alternatives would demolish a couple dozen, the idea that such an action constitutes or creates adverse effects is presently only to be inferred. The Federal Preservation Officer for DHS has been silent through the consultation process, which is odd considering that this project is likely the largest and most historically sensitive that DHS will ever undertake. Meanwhile, we have no analysis of effects on landscapes and views and of the visual effects of such substantial bulk and scale and encroachment upon the overall setting and the cohesiveness of the campus. We all must comply with the provisions of the Section 106 regulations cited above requiring that agencies "[d]evelop in consultation with identified consulting parties alternatives and proposed measures" that might avoid, minimize or mitigate effects. But we have no indication that such alternatives are being developed nor measures proposed to avoid, minimize or mitigate.

We are hopeful that a Draft Environmental Impact Statement will manage to go beyond mere form and not only fully describe but conscientiously address and resolve

the adverse effects.¹⁵⁶ Given the public and private insistence of the DHS and GSA personnel upon 4.5 million gross square feet of office plus a couple million square feet of parking, storm water retention ponds, and a helipad on a National Historic Landmark campus, we are concerned that the EIS may not grapple with the immense preservation issues in a sufficiently rigorous fashion. Again, the intent of the relevant law and regulations is to formulate alternatives that best avoid adverse effects, not to choose a preferred alternative and then try to improve it at the margins.

Ultimately, all problems are substantive; the reason for following proper procedure is to arrive at a reasonable outcome, and we are not there yet. I would be willing to detail all of the specific adverse effects anticipated (beyond what has been done in the consultation meetings), but an analysis of particular effects is now more important and more appropriate coming from GSA and DHS. The one overarching, inescapable conclusion is that the proposed bulk is simply too great. We disagree strongly with the statement of the *Department of Homeland Security National Capital Region Housing Master Plan* to the effect that “all the full build (4.5 GSF) master plan alternatives can preserve and protect the important tangible, as well as intangible, historic characteristics of the campus while ensuring operational effectiveness.” Certainly, when an undertaking entails the demolition of a couple dozen contributing structures, one has to conclude that the bulk responsible is problematic. The bulk would also create scale and setting issues relative to the remaining historic buildings; will destroy or visually harms historic landscape and archaeological resources beneath it; will impede or impinge upon views within or from the campus, and will dominate views from the outside in. It is simply a function of the limits of the burden such a property can take. And even if 4.5-plus million were shown to be an appropriate upper limit,

156 NEPA regulations, Section 1502.1: “The *primary purpose* of an environmental impact statement is to serve as an *action-forcing device* to insure that the policies and goals defined in the Act are infused into the ongoing program and actions of the Federal Government. It shall provide *full and fair discussion of significant environmental impacts* and shall inform decisionmakers and the public of the *reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment...*”

“§ 1502.14 Alternatives including the proposed action.

This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (§ 1502.15) and the Environmental Consequences (§ 1502.16). It should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall:

(a) *Rigorously explore and objectively evaluate all reasonable alternatives*, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) *Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.*

(c) *Include reasonable alternatives not within the jurisdiction of the lead agency.*

(d) Include the alternative of no action.

(e) Identify the agency's preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference.

(f) Include appropriate mitigation measures not already included in the proposed action or alternatives.”

you would have to concede that any changes in construction or any (likely) future growth would by definition be problematic. Failure to address this point is a further weakness. The bulk proposed and the associated security measures, parking, storm water retention ponds, etc. put pressure upon every point. Beyond some point, there is no way that the bulk can be re-arranged so as to eliminate these effects or make them tolerably respectful of the NHL. We believe that the “high-density” alternatives, while saving some of the major buildings and some of the landscapes, would destroy the character of the campus.

For the sake of comparison, a few years ago the District of Columbia Office of Planning conducted a study of Saint Elizabeths for the purpose of a redevelopment plan. That study came up with a proposed 2.7 million gross square feet to be on the West Campus, with nearly one third consisting of the adaptive reuse of existing buildings. The total for the *entire* campus, East and West, was under 5.4 million. And these numbers were produced independent of and prior to the same sort of mandated preservation review that is occurring now for the West Campus and were thus subject to adjustment. When the Urban Land Institute studied the West Campus and concluded that residential is the most suitable use, the panel estimated new construction of 570,000 square feet of condominiums and 25 single-family infill units which, in addition to adaptive reuse of historic buildings, would have surely totaled less than 1.5 million square feet. Sure, more bulk could have been proposed in either scenario, but both organizations took very seriously the necessity of preserving the character of the campus. In addition, these square footage numbers are not directly comparable to the bulk proposed for DHS, because in the private development scenarios much of the parking would have been placed below the new buildings, whereas the present high-security alternatives add substantially to the overall above-grade bulk by separating parking into independent structures—and thus creating even more impervious surface and greater demands for storm-water management. With the parking included, the total development is comparable to the size of the Pentagon—but unlike the Pentagon, it is not to be placed at a previously undeveloped site a hub of highways and public transportation but rather perched on a prominent, treed hillside within a National Historic Landmark district and between low-density residential communities with limited highway and subway access. The *Department of Homeland Security National Capital Region Housing Master Plan* suggests that the proposed bulk is acceptable because it is arranged in such a way that the ratio of the total area to be occupied by the footprints of existing and proposed buildings is at a one-to-four ratio to the entire area of the campus. It is unclear from where this standard was derived (no design guidelines have yet been devised), but again, for the sake of comparison, the ratio of built to unbuilt area (including circulation, yards and parking) in many predominantly rowhouse neighborhoods—a very distinct pattern from that of campuses—is about one to three. And the idea of aggregate footprint doesn’t fully capture the impact of bulk. A rowhouse neighborhood would be characterized by two- and three-story buildings instead of the proposed two to six. Both relative the height and relative distance of objects affect impressions of bulk and space. A better measure of total bulk is the floor area ratio (FAR), which incorporates an understanding of the effects of footprint, height and massing together. In addition, the fact that a substantial portion of the site is slope (and another portion is proscribed by the eagle protection

zone) indicates that the effective density on the buildable portion is higher and the buildings more crowded.

We all still have the opportunity, prior to any approval of this undertaking, to plan and to take any actions necessary to minimize to the maximum extent possible harm to this NHL, as required by law. To that end, I would strongly encourage GSA's responsiveness to the substance of this matter as much as possible and as quickly as possible in accordance with statute. DHS has conceded that, even with all the bulk proposed, the site is not sufficient to accommodate all of its Washington offices. Thus, there will continue to be DHS facilities elsewhere. The essential question then is, how much, of what, is appropriate in each place? Again, it is logically inconsistent for DHS to assert *both* that it has no alternatives to putting its requested bulk and program *and* that it will walk away from the site entirely if not satisfied.

GSA has engaged very talented consultants whose work has been extremely helpful in understanding the challenges. It would be helpful, even crucial, to add an economic analysis balancing the campus's needs for development and retention of original fabric. I look forward to working with your consultants and the consulting parties in trying to find a solution that accommodates federal office needs while respecting the National Historic Landmark. In any case, we will continue to strive to make any plan better. If your agency is determined to pursue the 4.5-million-plus alternatives alone, however, it is our fear that we may not be able to conclude a Programmatic Agreement for such a plan. We believe that the Secretary of the Interior will also have to report to Congress the potential threat to the National Historic Landmark.

Sincerely,

Timothy J. Dénée
Architectural Historian

cc: Anthony Costa
William Guerin
Rolando Rivas-Camp
Hector Abreu-Cintrón
Thomas Luebke
Patricia Gallagher

BIBLIOGRAPHY

- Advisory Council on Historic Preservation. *Meeting the "Reasonable and Good Faith" identification standard in section 106 review*.
http://www.achp.gov/docs/reasonable_good_faith_identification.pdf Last accessed October 21, 2012.
- African Burial Ground & Five Points Archaeological Projects., & African Burial Ground (New York, N.Y.). (1993). *Update: Newsletter of the African Burial Ground & Five Points Archaeological Projects*. New York, N.Y: Office of Public Education and Interpretation of the African Burial Ground.
- Association for Preservation Technology. APT bulletin: The Journal of Preservation Technology. Volume 37, number four. Articles by: Rolando Rivas-Camp *Design excellence and historic preservation*; Sharon C. Park *Respecting significance and keeping integrity: approaches to rehabilitation*; Caroline R. Alderson *Responding to context: changing perspectives on appropriate change in historic settings*; David G. Woodcock *Encouraging excellence while maintaining standards: an ongoing discussion*.
- Bass, Ronald E., Herson, Elbert I., Bogdan, Kenneth M. *The NEPA Book: a step-by-step guide on how to comply with the national environmental policy act*. Solano press books (2001).
- Blakey, M. L. (May 01, 2010). African Burial Ground Project: paradigm for cooperation?. *Museum International*, 62, 61-68.
- Cheek, C. D., Roberts, D. G., Bartlett, A. B., Jacobs Edwards and Kelcey., United States., & John Milner Associates. (2009). *The archeology of 290 Broadway*. West Chester, Pa: John Milner Associates, Inc.
- Gollaher, D. (1995). *Voice for the mad: The life of Dorothea Dix*. New York: Free Press.
- Hardesty, Donald L., Little, Barbara J. *Assessing site significance: a guide for archaeologists and historians*. Altamira press (2000).
- Harrington, Spencer PM. "Bones and Bureaucrats: New York's Great Cemetery Imbroglio." *Archaeology Magazine*. March/April, 1993
- Jackson, Emily G. (editor). *Historic preservation of US properties: focus on civilizations and cultures*. Nova Science Publishers Incorporated (2011).

- King, Thomas F. *Cultural resource laws and practice: an introductory guide*. Altamira press (1998).
- King, Thomas F. *Federal planning and historic places: the section 106 process*. Altamira press (2000).
- King, Thomas F. *Our unprotected heritage: whitewashing the destruction of our cultural and natural environment*. Left Coast press Incorporated (2009).
- King, Thomas F. *Thinking about cultural resource management: essays from the edge*. Altamira press (2002).
- Kirkbride, T. S. (1973). *On the construction, organization, and general arrangements of hospitals for the insane: With some remarks on insanity and its treatment*. New York: Arno Press.
- Laroche, C. J., & Blakey, M. L. (January 01, 1997). Seizing Intellectual Power: The Dialogue at the New York African Burial Ground. *Historical Archaeology*, 31, 3, 84-106.
- Mack, M. E., & Blakey, M. L. (January 01, 2004). The New York African Burial Ground Project: Past Biases, Current Dilemmas, and Future Research Opportunities. *Historical Archaeology*, 38, 1, 10-17.
- Miller, Julia H. *A layperson's guide to historic preservation law: a survey of federal, state, and local laws governing historic resource protection*. The National Trust for Historic Preservation (1997).
- National Trust for Historic Preservation: Forum Journal. Winter 2012, volume twenty six, number two. This particular addition of Forum Journal is entitled Section 106 uncensored: insider's perspective, Sustaining section 106 into the 21st century: GSA's perspective by Beth L. Savage (GSA FPO) .
- National Research Council of the National Academies. *Investments in federal facilities: asset management strategies for the 21st century*. The National Academies Press (2004).
- Perry, W. R., Howson, J., Bianco, B. A., Howard University., & United States. (2009). *The archaeology of the New York African Burial Ground*. Washington, D.C: Howard University Press.
- Tomlan, Michael A. *Historic Preservation: Caring For Our Expanding Legacy*. (projected publication date 2013).
- United States government, ACHP, National Park Service, US Department of the Interior. *The section 110 guidelines: annotated guidelines for federal agency responsibilities under section 110 of the national historic preservation act*. US GPO (November 1989).

United States government, ACHP. *36CFR part 800: protection of historic properties – regulations of the advisory Council on historic preservation governing the section 106 review process*. US GPO (October 1, 1986).

United States government, ACHP. *Advisory Council on historic preservation: section 106 advanced seminar*. US GPO (2009).

United States government, ACHP. *Fact sheet: working with section 106 – guidelines for the review process established by 36 CFR part 800*. US GPO (1984).

United States government, ACHP. *Preparing agreement documents: how to write determinations of no adverse effect, memoranda of agreement, and programmatic agreements under 36 CFR part 800*. US GPO (September 1989).

United States government, ACHP. *Section 106, step-by-step*. US GPO (October 1986).

United States government, GSA & ACHP. *Supplemental reader: introduction to federal projects and historic preservation law*. US GPO (April 1988).

United States government, GSA public buildings service. *The site selection guide*. US GPO (March 2003).

United States government, GSA. *Extending the legacy: GSA historic building stewardship 2008*. US GPO (2008).

United States government, GSA. *Extending the legacy: GSA historic building stewardship 2011*. US GPO (2011).

United States government, GSA. *Facilities standards for the public buildings service*. US GPO (March 2005).

United States government, GSA. *Held in public trust: TBS strategy for using historic buildings*. US GPO (2009).

United States government, GSA. *Historic property disposal guide*. US GPO (2008).

United States government, GSA. *State of the portfolio FY 2007*. US GPO (2007).

United States government, GSA. *State of the portfolio FY 2009*. US GPO (2009).

United States government, GSA. *The challenges of modernizing a historic building: an EE OB case study*. US GPO. (March 9, 2010).

United States government, GSA. *The design excellence program guide: building a legacy*. US GPO (2010).

United States government. (1992). *Foley Square construction project and the historic African burial ground, New York, NY: Hearings before the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation, House of Representatives, One Hundred Second Congress, second session, July 27, 1992 (New York City, NY), September 24, 1992 (Washington, DC)*. Washington: U.S. G.P.O.